The MAINE LAW

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Studies and Documents of the Anti-Alcohol Movement No. 3

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BY

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NEW YORK CHICAGO

Fleming H. Revell Company

LONDON AND EDINBURGH

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FLEMING H. REVELL COMPANY

New York: 158 Fifth Avenue
Chicago: 17 North Wabash Ave.
London: 21 Paternoster Square
Edinburgh: 100 Princes Street

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I

THE SOCIAL OUTWORKINGS OF PROHIBITION IN MAINE

THE men who devised the Maine law may justly claim Cotter Morison's title of "moral inventors." Yet no invention has ever called forth more opposition and ridicule than theirs. To many it has seemed in the field of social reconstruction what perpetual motion is in the field of mechanics, —a thing that simply will not work. Prejudice, tradition and financial interest have ranged themselves against it. Many confusing factors have entered into its history and workings to perplex those whose natural sympathies are with legislation of this type.[1] In an interview in the *Wheeling Intelligencer* (Oct. 26, 1883), Gov. Robie, the then chief executive of Maine, remarked: "It is really very difficult to get all the facts of the case. Almost every man forms his own judgment and it is likely to differ from that of almost every other man."

In reading carefully upon this subject, however, certain things of which we can be fairly sure, gradually stand out. These we should summarize as follows:

1. That the alcoholism of pre-prohibition Maine was of a desperate type.

2. That in the generation succeeding the passage

of the prohibitory law there was a general freedom from alcoholism throughout the state.

3. That after the adoption of the prohibition amendment to the constitution in 1884 down to the close of the century, relatively good enforcement was succeeded by widespread nullification.

4. That this reactionary ebb was largely due to persistent attempts of out-of-state liquor interests, with the co-operation of political leaders in the dominant party within and without the state, to break down the law.

5. That the attitude of the Maine courts has facilitated this attempted nullification.

6. That since the opening of the century there has been a steady, although frequently interrupted, recovery, and that the outlook is promising for the continuance and enforcement of the law.

The Maine of the early nineteenth century was as profoundly alcoholized as rural Sweden before the suppression of home distilling or as present-day Normandy.[2] Thirteen distilleries poured a flood of a million gallons yearly out over a poor pioneer state. The population of Maine in 1832 was but 450,000, yet there were 2000 bars at which intoxicants were openly sold. General stores retailed liquor as freely as calico. In the reports of the time one gets pictures of the measured movements of ox-teams transporting rum in bulk to the smallest and most remote hamlets; of canal boats carrying it in incredible quantities through Sebago and the other lakes of the Cumberland and Oxford County Canal, and leaving it at all points along the route to spread misery, poverty and disease. Senator Frye has pictured the

"unpainted houses, broken windows, neglected farms, poor school houses, and broken hearts and homes" of the old days. In conversation with those of the time, who still survive, one gets vivid pictures of this intense alcoholism. Mr. Andrew Hawes of Stroudwater recalls the time when that little village of forty-five houses supported six places where drink was sold. He has in his possession a black-list of drunkards—finished product—to whom the rumsellers of the place were no longer allowed to sell. There were ten names upon it. Between Saco and Portland, a distance of seventeen miles, there were, as he remembers seventeen places where drink was sold, and the road between Portland and Bridgton, forty miles, had an equally high average. The villages of Maine were full of drunkards. The Secretary of the Maine State Temperance Association collected in 1832 reports on this point from 200 towns. Alfred counted 55 men and 6 women accustomed to getting beastly drunk; Kennebunk 95 men and 19 women; Westbrook 131 notorious drunkards; Topsham 38 drunken men and 5 women, with 6 cases of delirium tremens; Belfast 55 deaths from delirium tremens. These were a fair average of the two hundred.[3] The day books of most of the stores throughout Maine showed more frequent entries for liquor than for any other article. In 1829 according to one estimate we have run across, the liquor bill of Maine was four times the amount paid in taxes—municipal, county and state. The output of Maine forests, her chief source of wealth, passed literally through Maine throats to irrecoverable waste. A typical illustration of the economic ruin which alcohol caused the country

towns is given in the case of the village of Raymond. It is estimated in the sales entered in old account books that the value of liquor consumed in each 18 years was greater than the entire valuation of the town.

House to house begging for cold victuals was common in Portland, ceasing, however, after prohibition, altogether. One of the leading bankers in Portland has recalled to me his reminiscences of these barbarous days. His father's house was in the finest street of the city and his boyhood's evening delight was to stand near the three barrooms of the immediate neighborhood to enjoy the excitement of the fighting which could invariably be witnessed about them. Next to the intensity of this alcoholic saturation, that which surprises us most, in view of the modern scientific appraisal of alcohol's action, is the naive unconcern of the people regarding it. In certain recollections in the *Portland Press* (July 14, 1879), mention is made of a large Methodist convention to which every visitor brought along with his lunch a jug of rum. Three gallon jugs were common in the hayfields, and in Portland the bells rang daily at one o'clock for the serving of grog.

With the enactment of prohibition this period of *social* alcoholism ended. It is commonly objected by those who seek to belittle the principle of prohibition that the undoubted transformation after 1851 was due chiefly to the widespread popular temperance movement which preceded the legislative enactment.[4] This is easy to disprove. The prohibition law of 1851 was repealed in 1856 and for two years the state was again under license. A committee of Port-

land aldermen published a statement to the effect that in six months the importation of drink into that city had jumped thirtyfold. (In the six months preceding Jan. 1, 1856, the importation of liquor was 10 pipes, 23 bbls., 4 cases and 2 bbls. of ale; in six months preceding Jan. 1, 1857, the amount rose to 58 pipes, 1040 bbls., 308 cases, 373 bbls. of ale.) Not "suasion" but prohibition had kept consumption down.

In the generation which followed between the adoption of the law and its placing in the constitution (1851-1884) results far outran anything in experimental legislation dealing with the drink problem that we know of. Manufacture ceased, sale disappeared in most of the state. In certain cities it lingered on, proscribed and hunted, the degree of enforcement varying with the officials. Bangor has always been the low-brow of Maine. Yet even here the law was at times well enforced. Mayor Wainwright wrote in 1872: "The law is being enforced throughout the state as never before and with wonderful success. It is safe to say that in our city not a tenth as much is sold as in years past when the law was not enforced." Under Mayor Wakefield and Sheriff Jerrard (1875-79) there was also excellent enforcement. In 1866 Neal Dow wrote in the *Witness* of Edinburgh: "Strangers visiting any city or town in our state and residing there for months and becoming familiar with every street would see no vestige of the traffic remaining."[a] That

[a] For the fifties we have this testimony of Bishop Burgess: "Whatever it is in the power of a prohibitory

this was not merely the rosy fancy of Prohibition's *vieux sabreur* is clear from the following extract from a signed statement of Maine's entire congressional delegation (Frye, Hale, Reed, Lindsay, Powers, Hamlin, Blaine): "For the first ten years of its existence there were many difficulties and serious obstacles.[5] A great variety of questions of practice, evidence, and pleading was presented to the court for their adjudication, and very frequently persons overcome by their prejudices, failed to agree upon verdicts but the courts finally determined all points of law . . . so that during the last 18 years the enforcement of the provisions of the law has been constant, general, and successful. . . . The law is now as easily and

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law to accomplish without extreme severity or inquisitorial scrutiny the law has generally in my opinion accomplished. Those who are bent upon obtaining liquor can and do succeed. But it has ceased to be an article of traffic. It has ceased to present any open temptation. The young are comparatively safe and all the evil of public drinking shops and bars are removed, together with the interests of a large body of men in upholding them for their own pecuniary advantage." Clubb, "History and Results of the Maine Law," p. 15.

For the seventies this: The Supervisor of Internal Revenue for the Maine District writes: "In the course of my duty as an internal revenue officer I have become thoroughly acquainted with the state and extent of the liquor traffic in Maine and I have no hesitation in saying that the beer trade is not more than 1% of what I remember it to have been, and the trade in distilled liquors is not more than 10% of what it was formerly. Where liquor is sold at all it is done secretly through fear of the law." Quoted in the *Temperance Vindicator,* Aug. 27, '75.

thoroughly enforced as that for the prevention and punishment of any other similar crimes, and we can sincerely affirm that it is a success."

All the evidence, indeed, does not run in one direction.[b] Yet that affirming the law's general enforcement is so strong that one is probably justified in believing the state of things to have been, on the whole, satisfactory. The Lewiston *Weekly Journal* (April 1, 1880), wrote: "In the cities of Lewiston and Auburn with a population of nearly 30,000 there is not a single open dramshop and no hotel has even

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[b] In '74 Nelson Dingley wrote: "The effect of the law has been good and wholly good. In more than three-fourths of the state the law has been well-enforced and dramshops are unknown. In the balance of the state the law is not so well enforced and in Portland and Bangor I regret to say that we are about as badly off as if we had a license law." In view of other evidence, one can hardly believe that this last sentence is other than exaggerated. Thus Dr. Asa Dalton, rector of St. Stephen's Episcopal Church, Portland, wrote in 1872: "To make the law a still greater blessing all that is needed is to enforce it as faithfully in the future as at the present time." In the period 1872-78 Mayor Libbey of Portland was county attorney of Cumberland County. A notice of his career states that "although he did not believe theoretically in the policy of prohibition, he rigidly enforced the law and in his term as county attorney prosecuted liquor indictments which resulted in total sentences of 50 years for liquor-sellers and the payment of $50,000 in fines." An anti-prohibition barker, writing in 1875, described the liquor traffic as "monopolized by the lower class who hide away in cellars or are themselves walking grogshops." This is the statement of an enemy of the law. Certainly no license law ever reduced the trade to such a pass.

a single bar." This is confirmed by living testimony. Dr. Chase, the president of Bates College, tells me that he remembers the time in Lewiston when would-be sellers were so put to it that they were obliged to secrete their liquors in cemeteries. To Gov. Robie's inaugural statement, "In a large part of the state embracing more than three-fourths of our population the liquor traffic is practically unknown. It lingers on on a small scale and more or less secretly in our large town and cities" we can add as a minimum claim the words of Prof. McDonald ("The Government of Maine," p. 160), "It seems probable that in the state at large the law has been as generally obeyed as have the license laws of some other states."

For two generations Maine has been the subject of insult and misrepresentation on the part of "brewer, distiller, dramseller, wine-bibber, and fault-finder," to use Gov. Dingley's grouping.[6] These enemies of prohibition have sought to prove her poor, backward, drunken, ignorant, provincial. Mr. Clausen, a New York brewer, speaking at a Brewers' Congress in 1885, describes the state as "the most pauper-ridden one in the Union" and declared delirium tremens to be "proportionately more frequent than in any other state." Drunkenness is pictured as incredibly prevalent. The Committee of Fifty's investigator alleged counting forty drunkards passing the steps of a Portland hotel in one half hour—a sight which certainly could not be paralleled at any other hotel entrance in Christendom. Sots are so numerous according to a statement quoted in the *Portland Press* (Aug. 3, 1881), "that railroad trains run over them

as out West they run over army worms which cover the rails for miles." Officials within the state add their testimony. Sheriff Pennell, going to Delaware to speak for the "wets" in a local option contest, pictures prohibition as making "hypocrites of men and prostitutes of women."[7] Gov. Garcelon, a generation ago, insisted that as a by-product of this legislation, "Snuff-dipping was becoming universal[c] and the use of opiates increasing to an alarming extent.[d] Many a man has appeared advocating temperance who had in his pocket a bottle of laudanum. The Maine lady, too, carries chloroform and ether to moisten her handkerchief."[8] Hundreds of children

[c] Gov. Dingley pointed out that, at the time of this statement (1880) the internal revenue tax on tobacco for Maine was but 17 cents against $1.18 for the United States.

[d] This story is repeated decade after decade. In 1908 the papers of the country reported that the sharper enforcement of the law in Maine was producing a crop of opium smokers in the rural districts out of men unable to get whisky. Dr. Hamilton Wright who had been appointed by the government to represent the United States at an international opium conference was the authority given. Dr. A. C. Young, Secretary of the Maine Board of Health, who had been requested by Dr. Wright to make an investigation in Maine, stated that the above story was put in circulation *before the investigation was begun.* "Letters were sent to physicians in various parts of the state and to druggists in every city and county. The answers which I have received furnish nothing in support of the assertion that there is any large use of opium. . . . Many of my correspondents state positively, or that it is their opinion, that the use of opium and its derivatives is on the decrease."

are alleged to engage in illegal sale in Portland.[e] Wages, it is stated, touch bottom in this impoverished state.[f] One characteristic quotation will serve as typical of all this literature. It appeared in the

[e] This saga also is continuously reproduced. Newbert, a dripping "wet" in the Maine legislature, said in a speech in 1907 (*Maine Legislative Record,* 1907, p. 585), "A school teacher in Portland is reported to have said that 1000 school children in that city were identified with the liquor traffic." In the New Orleans *Item,* Oct. 15, 1910, T. M. Gilmore quoted the police matron of Portland as saying "in one year 555 little boys and girls were arrested for drunkenness or for peddling whisky." The records of the police matron show that in 1913 555 minors (i.e., persons under 21) were arrested. Most of these were between 16 and 21. Only 89 among them were arrested as drunk and disorderly. There was not a single case of liquor peddling.

The probation officer for the municipal court of Portland for the year ending Dec. 13, 1911 (p. 75, Report of Sheriff and Jailer for County of Cumberland), reported that 46 boys under 16 years were put on probation. Not one of these was, according to the officer, arrested for drinking or drinkselling.

[f] Howard Noble in the Boston *Post,* Sept. 25, 1915. But Bulletin 93 Census of Manufacturers (1905), p. 36 (Dept. Commerce and Labor), tells another story. The median wages of all wage-workers was in

Maine	$9.39
New Hampshire	9.04
Vermont	9.24
Massachusetts	9.68
Rhode Island	9.19
Connecticut	10.34

It is probable that the situation of labor in Maine is much better than here appears because of a relatively lower cost of living in that state.

Marion Register, an Iowa newspaper, at the time (1882) when agitation for prohibition was rapidly growing in that state.

"The pauper rates for the state of Maine are nearly three times greater than the average in the Union. Her criminals have increased a little over 206% since 1861. More arrests were made in Maine and Vermont in the year 1880 for drunkenness than in either the great states, New York or Illinois. More pocket flasks are sold there according to the statement of glass manufacturers than in any other state. More opium is consumed in Maine than in any state except California, yet no Chinese live in Maine. More divorces were granted in the courts of Maine and Vermont last year than in any other state, and habitual drunkenness is the cause in the majority of cases.[8] The average of births to the population is the lowest

[8] This count against Maine has appeared many years and in various lands. The last time the writer noticed it was in the *Reichspost* of Vienna. In twenty years, 1887-1906, the divorces for drunkenness of husbands were in Maine 1882 (94 per annum), in Massachusetts 2837 and in virtuous New York state 11 (Bulletin, Marriage and Divorce, p. 47). Many states do not allege drunkenness as a ground for divorce as Maine does. Further, the Maine divorce laws are, in general, not rigid. A divorce is granted after a year if the other party does not appear. As a consequence people who find it hard to secure divorce in other states have recourse to Maine. It is stated that a large proportion of these divorces for drunkenness come from the mill town counties. Factory women with drunken husbands leave Lowell or Fall River and work in Biddeford or Millenocket long enough to secure the coveted release. Such divorces, Massachusetts-caused, are charged up to Maine.

of any state in the Union.[h] The late census shows no progress in population, agriculture, the sciences, or any other vocation of life in either Maine or Vermont. Women refuse to raise families that they may take the platform and lecture on reform. The apple crop is made into peach brandy. All the medicinal poisons which stimulate the brain are sold in greater quantities than in any other state. Drunkenness reels in the streets; criminal abortion is on the increase. God save our belowed Iowa from the folly of following in the footsteps of unfortunate and misguided Maine."

When one turns to the official statistics of state and nation one finds, for these attempts to discredit Maine, little basis in fact. Rather does the statistical material accessible seem to place the Pine Tree State in an exceptionally favorable light. While there may be a question as to the degree in which the prohibitory law has contributed to this favorable showing one can hardly question that it has made its contributions—in certain directions important ones.

That the average per capita true wealth ($1420)

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[h] The actual facts can be gathered from Census Bulletin 22, p. 13. Number of children under five years of age to 1000 females 15 to 49 years of age.

Maine	372
New Hampshire	352
Vermont	386
Massachusetts	347
Rhode Island	354
Connecticut	370

This may mean a higher birth rate or, more probably, better care of children. The latter factor could well be a result of the absence of alcoholism.

of Maine, pre-eminently a farming state, is not as high as that of Massachusetts ($1805) with its long established industries and huge accumulations of capital, is not surprising. What is interesting is that Maine is overtaking the other states of New England. In 1850 Maine's per capita wealth was but 50% of the New England average; in 1912 84% (Wealth, Debt and Taxation, 1913, p. 26). Or to express it otherwise, while since 1850 New England multiplied her taxable wealth by 3.4, and Connecticut, the richest State in New England, by 4.4, Maine multiplied hers by 6.5.[i] According to the eighth annual report of the bank commissioner of Maine there were 238,569 depositors in savings banks in 1914. Only nine states have a larger gross number of depositors; only one or two larger in ratio of depositors to population. But to the depositors in savings banks should be added 146,719 depositors in trust companies, and 12,133 in loan and building companies. This gives the huge total of 397,401 depositors in a total population of 762,789 persons. The average savings banks deposit to each depositor is $404.07. Only ten states in the union have a larger average deposit to each depositor and what is more surprising only ten states have a larger gross amount of deposits in savings banks. (Statistical Abstract of the U. S., 1914, p. 535.) Maine is in the class of the great states in

[i] Bulletin 105, p. 59, 1907. There are 47 cities of the class 50,000 to 100,000 in the United States. In total assessed property per capita Portland is number five. But the valuation of three of the preceding ones, Cambridge, Hoboken, and Yonkers is due to inflation of real estate values from proximity to Boston and New York.

her accumulations yet in 1850 there was not a single savings bank in the state.[9] Further I am informed by bankers that Maine is an exceptionally large purchaser of bonds; and that in both '73 and '93, panic years, when the great money markets were wracked and shaken, Maine suffered very little depression.[j]

When one compares Maine with her sister states in New England in the matter of indebtedness one finds nothing wherewith to discredit prohibition. The per capita state debt, less sinking fund assets, was for the New England states in 1913 as follows (Wealth, Debt and Taxation, 1913, Vol. 1, p. 37):

Maine	$1.67
New Hampshire	4.50
Vermont	1.58
Massachusetts	23.78
Rhode Island	9.02
Connecticut	6.12

Similarly the county and municipal per capita indebtedness for 1913 (Wealth, Debt and Taxation, Vol. 1, p. 229):

Maine	$18.35
New Hampshire	14.49
Vermont	10.94
Massachusetts	33.18
Rhode Island	36.52
Connecticut	26.75

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[j] One is not surprised to learn that 9 out of the 11 bank presidents of Portland are prohibitionist in their sympathies and that this is the case with the mill-owners and substantial business men generally.

In 1913 Maine was the fifth in the Union in her per capita revenue receipts (Wealth, Debt and Taxation, Vol. 2, p. 22). Between 1903 and 1913 Maine's population increased 6.8%; her state revenue receipts increased 149.6%. Massachusetts' population increased 90.1%; her revenue receipts 92.6%. The per cent of increase in state revenues between 1903 and 1913 was for:

Maine	149.6%
New Hampshire	139.7%
Vermont	64.6%
Massachusetts	92.6%
Rhode Island	100.0%
Connecticut	70.0%

Turning to the subject of pauperism, one finds Maine, alongside of ex-prohibition Vermont, with a relatively lower population in almshouses than the balance of New England. Interned paupers to 100,000 of the population (Statistical Abstract, 1914, p. 56):

Maine	127.3
New Hampshire	230.2
Vermont	107.6
Massachusetts	194.7
Rhode Island	141.5
Connecticut	201.3

The U. S. Brewers' Association publishes a tract entitled "Maine the Laughing Stock of New England," in which are embedded quotations from a speech by Mayor Fitzgerald of Boston before the Agricultural Association of Biddeford. Mr. Fitzgerald, three of whose brothers are saloon-keepers and

a fourth a brewery agent, courteously explained to his Maine audience that "Maine was the least developed state in New England." It is perhaps worth while, therefore, to bring out some of the official evidence concerning the general situation of Maine farmers. One could not want fuller evidence of their thrift, energy, intelligence, sobriety, and progressiveness. There are no loafing places in Maine villages adorned with the big gilt signs of the brewers. There are no country taverns like those of Pennsylvania and Maryland with a seedy *clientèle* that ought to be at work in the fields.

Turning to the abstract of the Thirteenth Census (1910) we find first (p. 547) that 93.9% of all Maine farms are operated by their owners; 2.5 by managers; and only 3.6% by tenants. The Maine farmers are an independent yeomanry. In the ratio of indebtedness to value of farms they present the most favorable showing in New England (Abstract, 1910, p. 294):

	Farms free from mortgage, 1910.	Per cent. of ratio of debt to value.	Per cent. of farms mortgaged.
Maine	41,309	29.5%	26.6%
New Hampshire	18,119	30.9%	25.6%
Vermont	14,851	33.7%	46.9%
Massachusetts	18,768	32.9%	40.9%
Rhode Island	2,811	33.2%	29.6%
Connecticut	13,080	31.3%	43.2%

In the percentage of farm homes owned, with or without encumbrance, Maine leads the Union with 94.7%. The average of the United States is 62.8 (Thirteenth Census, 1910, Vol. 1, p. 1306). The per-

centage of farmhouses owned without encumbrance in 1910 was for

The United States	42.5%
New England	59.2%
Maine	70.2%
New Hampshire	68.5%
Vermont	46.1%
Massachusetts	52.8%
Rhode Island	56.7%
Connecticut	50.9%

The increase or decrease of farms free from mortgage from 1900 to 1910 was for

The United States	+4.4%
New England	+1.0%
Maine	+5.7%
New Hampshire	—3.6%
Vermont	+2.9%
Massachusetts	—2.3%
Rhode Island	—6.6%
Connecticut	—1.9%

(Thirteenth Census, Vol. 5, p. 165.)

While in the decade of 1900-1910 there was in Maine an actual decrease of land under cultivation of 3087 acres,[k] there was a very great increase in valuation and in production.[l] In these increases Maine

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[k] Anti-prohibition croakers make much of this fact but the decrease was general in New England. Thus the number of acres under cultivation in Massachusetts fell in the years 1880-1900 from 2,128,311 to 1,292,130, a drop of 44% (Census 1910, Vol. 5, p. 68).

[l] In the product of field and orchard and pasture,

Maine easily outstrips the rest of New England. This is clear from the statistics of four New England staples:

	Value of haycrop, 1909.	Per cent. of increase, 1899—1909.
Maine	$15,115,801	42.0%
New Hampshire .	7,846,243	23.8%
Vermont	16,335,530	54.9%
Massachusetts ..	11,280,989	24.6%
Rhode Island....	1,309,717	21.1%
Connecticut	7,224,500	20.4%

	Production of potatoes in bushels.	Per cent. of increase in 10 years.
Maine	28,556,837	191.0%
New Hampshire..	2,360,341	2.5% decrease
Vermont	4,145,630	16.8%
Massachusetts ...	2,946,178	12.0% decrease
Rhode Island	552,677	34.5% decrease
Connecticut	2,684,414	23.2% decrease

(Abstract of 13th Census, p. 400)

	Value of Live Stock on farms in 1910.	Increase of value 1900—1910, Per cent. of increase.
Maine	$25,161,839	47.1%
New Hampshire.	11,910,478	12.8%
Vermont	22,642,766	26.9%
Massachusetts ..	20,741,366	31.3%
Rhode Island....	3,276,472	26.3%
Connecticut	14,163,902	29.6%

(Ibid., p. 312)

	Value of orchards, 1899.	1909.
Maine	$833,634	$2,207,748
New Hampshire..	707,729	719,777
Vermont	450,429	801,365
Massachusetts ...	1,070,868	2,074,270
Rhode Island	155,571	197,639
Connecticut	1,011,359	1,327,074

led all New England (p. 279, Abstract of Census of 1910):

	Increase in valuation of all farm property.	Of land.	Of machinery and implements.	Of live-stock.	Of farm buildings.[m]
Maine	62.9%	75.4%	64.3%	47.1%	55.1%
New Hampshire	34.2%	39.4%	26.6%	25.7%	18.6%
Vermont	35.8%	29.1%	36.3%	28.6%	4.0%
Massachusetts	35.7%	32.8%	43.1%	43.6%	24.7%
Rhode Island	25.6%	14.9%	44.1%	29.9%	33.2%
Connecticut	48.8%	45.6%	47.7%	37.0%	47.0%

(Page 78, Vol. 5, 1910.)

Expenditure for fertilizer is a good test of agricultural intelligence and prosperity.[n] We are perhaps safe in saying that in the old days the farmers of Maine put into rum what now they put into fertilizers. In the light of the Fitzgerald allegation it is worth while to try Maine with this test, comparing her with the balance of New England. (Abstract of Thirteenth Census, p. 373.)

Expenditure for fertilizer in 1909.

Maine	$4,069,479
New Hampshire	512,580
Vermont	570,752
Massachusetts	1,965,682
Rhode Island	335,103
Connecticut	1,954,163

[m] The increase in value of farm buildings in Maine, 1900-1910, was $25,995,531; in Massachusetts, $17,542,269.

[n] Another straw blows in the direction of the prohibition states. Census Bulletin 123 deals with telephones. Maine had in 1902 20 telephones to 1000 population; in 1912, 92. Her increase in ten years led New England—46%. The average number of telephones in Maine and Vermont to 1000 population was 102; of the other New England states, 84.

"After more than half a century of prohibition," wrote that weeping philosopher, the statistical expert of the U. S. Brewers' Association, "Maine reveals by the Census of 1910 that 25,841 or nearly one-fifth of the total of Maine's family homes were mortgaged." Lamentable, perhaps, but the Census of 1910 (Vol. 1, p. 1305) gives Maine a standing in this matter which leaves the alcoholized states of Central and Southern New England out of sight.

The percentage of all homes owned without encumbrance in 1910 was:

The United States	30.8%
New England	23.2%
Maine	47.6%*
New Hampshire	38.1%
Vermont	34.9%
Massachusetts	16.9%
Rhode Island	15.6%
Connecticut	17.8%

(13th Census, Vol. 1, p. 1305.)

*Double the New England average and nearly three times that of Massachusetts.

There is less over-crowding in these homes than in Massachusetts homes. The census of 1910 gives two more persons to each dwelling in Massachusetts than in Maine. (Abstract of 13th Census, p. 260.)

Maine	4.7
New Hampshire	4.8
Vermont	4.6
Massachusetts	6.6
Rhode Island	6.8
Connecticut	6.1

Neither do educational tests support the contention of the ex-Mayor of Boston. The number of illiterates ten years of age and over to the one hundred of population was in:

Maine	4.1
New Hampshire	4.6
Vermont	3.7
Massachusetts	5.2
Rhode Island	7.7
Connecticut	6.0

In her expenditures for public schools on each $100 assessed valuation of all property Maine, with Vermont as usual, holds the blue ribbon:

	Cents
Maine	75.6
New Hampshire	41.5
Vermont	81.9
Massachusetts	46.9
Rhode Island	38.8
Connecticut	59.7

(Educational Report 1914, Vol. 2, p. XXIII).

Maine has an army of 7608 school teachers, the second in size in New England. When one divides the whole number of pupils by the number of teachers in each New England state one finds Maine with a teacher to every 20.8 pupils; New Hampshire, one to every 30; Vermont, one to every 24; Massachusetts, one to 41; Rhode Island, one to 42; and Connecticut, one to 47. (Ibid., p. 15 and p. X.)

On p. 224 of the Abstract of the 13th Census we find these creditable Maine-Vermont statistics:

	Persons between 6 and 20 attending school in 1910.	of all the children in the state	Between 15 and 20.
Maine	67.7%		35.2%
New Hampshire	65.8%		29.3%
Vermont	70.6%		36.2%
Massachusetts	66.7%		29.2%
Rhode Island	61.0%		23.2%
Connecticut	64.5%		24.9%

Alcoholized and over-industrialized communities show a larger percentage of children of school age at work than normal communities. Bulletin 69, p. 171, gives the number and proportion of the population from 10 to 15 years of age employed in all occupations.

	Male Children.	Female Children.
Maine	10.8%	5.7%
New Hampshire	13.0%	9.9%
Vermont	11.7%	5.0%
Massachusetts	12.0%	8.3%
Rhode Island	23.2%	17.4%
Connecticut	14.9%	10.4%

The percentage of women at work outside the home is smaller in Maine than in the rest of New England. One would not pretend that alcohol was the chief factor in this result, but it is probably a subsidiary factor of considerable importance.

Maine	20.5%
New Hampshire	26.6%
Vermont	18.4%
Massachusetts	30.8%
Rhode Island	31.4%
Connecticut	26.2%

Parallel with the fact that fewer women are in the mills goes the fact that more women are married in Maine and Vermont relatively than in the rest of New England. This seems to be an indication of prosperity. (Abstract of 13th Census, p. 160.)

	Males over 15 married.	Females over 15 married.
Maine	57.8%	59.2%
New Hampshire	56.9%	56.6%
Vermont	58.5%	66.0%
Massachusetts	54.7%	51.2%
Rhode Island	54.0%	52.2%
Connecticut	55.3%	54.6%

One of the most persistent calumniators of Maine is an ex-President of the American Statistical Association who contributes anonymously to the Yearbooks of the U. S. Brewers' Association. This writer characterizes the mortality from alcoholism in Maine as "one of the many evidences of the total ineffectiveness of state-wide prohibition to check one of the saddest results of intemperance." Mr. Koren may safely lay aside his cambric handkerchief. The answer to his query (Yearbook of U. S. Brewers' Association, 1909, pp. 114-116) "Why has prohibition in Maine a death rate from alcoholism exceeding that of Indiana, Maryland, Massachusetts, and four other states?" can be a simple "It has not." Equally unsubstantiated is his affirmation: "This excess is visible not only in the death rate from alcoholism in cities but in that for rural districts as well. Massachusetts shows a lower death rate from alcoholism in rural districts than Maine."

The vital statistics of the 12th Census (Part 1, p.

CLXII) stated this death rate in the registration of the country at large to be in 1900, 7.3 per 100,000. That in Maine was 2.2 (5.1 in the cities; 1.6 in the country); New Hampshire, 2.2; Vermont, 3.3; Massachusetts, 6.8 (7.6 in the cities; 4.3 in the country); Rhode Island, 10.5; Connecticut, 7.5.

The mortality statistics for 1913, p. 318, give the deaths from alcoholism (acute and chronic) as follows: United States, 3774; California, 204; Colorado, 64; Connecticut, 104; Dist. of Columbia, 60; Indiana, 110; Kentucky, 63; Maryland, 78; Maine, 29. These are the only states tabulated.

Does the generally abstinent life of Maine affect longevity? One would infer from the statistics of life insurance companies that this would be the case. Other factors, a greater wholesomeness of rural life, the emigration of young people out of the state, etc., presumably make their contribution to the following statistics. How to apportion the influence of all factors is impossible to determine.

In 1910 the following percentages of the population were between the ages of

	45 and 65.	65 and over.
Maine	18.9%	8.2%
New Hampshire...	19.2%	7.9%
Vermont	18.8%	8.2%
Massachusetts	16.7%	5.2%
Rhode Island.....	16.2%	4.6%
Connecticut	16.3%	5.3%

(Abstract of 13th Census, p. 1136).

Recent studies of mortality in Scandinavian cities (Wallis, Hinhede, Rygg) bring out with uncanny sharpness the contribution which alcohol makes to

male mortality. When we find, therefore, a markedly relatively greater excess of widows over widowers in the license states of New England as compared with Maine and Vermont we are ready to see the action of alcoholism obviously at work. We can find no other adequate explanation to account for this excess. Maine men are exposed to accidents in a higher degree than those of other New England states in the fishery, lumbering, and sea-faring industries. We are inclined to believe that the two following columns constitute an important proof of the protecting action of Maine's prohibitory law. (Statistical Abstract of U. S., 1914, p. 78, seq.)

	Number of widowed males.	Number of widows.	Percentage of widows to widowed males.
Maine	15,531	32,442	185
New Hampshire..	9,820	19,836	202
Vermont	8,281	15,215	182
Massachusetts ...	56,800	143,519	205
Rhode Island	9,832	21,521	219
Connecticut	19,733	44,541	225

A table on p. 100 of the Abstract of the Census Report for 1910 may perhaps offer corroborating testimony. In Maine and Vermont the number of males is considerably in excess of the number of females; in the more alcoholized states of New England the tendency is in the opposite direction. One would think that the large emigration of young men from Maine and the large immigration of males into Massachusetts would alter the balance. Factory life and factory accident affect women as well as men and do not therefore constitute a sufficient explanation.

	Number of males native and foreign to 100 females in 1910.	Number of native white males to females in 1910.
Maine	103.2	101.8
New Hampshire	100.9	98.3
Vermont	105.3	101.6
Massachusetts	96.7	95.3
Rhode Island	99.3	97.1
Connecticut	102.3	96.8

The extreme mobility of American life makes it difficult to appraise the full social action of state prohibition laws. According to the census of 1910 there were 212,251 persons born in Maine living outside of Maine. (The population of Maine in 1910 was 742,371.) Tens of thousands have left the Maine country districts to raise the social tone and statistical levels of other states. Thus in 1910 there were 94,253 Maine-born persons in Massachusetts as against only 19,831 Massachusetts-born in Maine. On the other hand 165,188 persons live in Maine who were born and bred elsewhere. Most of these are Americans from license areas, Irish, and French Canadians, with, doubtless in a fair average of instances, the alcohol taint upon them.[o] It is probable,

[o] Active opposition to the law has all along been largely alien or more specifically Irish. Court records of arrest for illegal selling make this abundantly clear. The Sullivans, McCanns and McGlincheys who have defied and circumvented the law against drinkselling are the true descendents of Daniel Mahoney's "Fairies" whose motto was, "This is Kerry where every man does as he pleases." Likewise with arrests for drunkenness. In 1912 of 6045 arrests, in Portland 945, nearly a sixth were Irish born, an enormous number considering the relatively small Irish community. There are between 200 and 300 "rounders" who appear before the courts periodically for

therefore, that social-pathological statistics are not so favorable to Maine as they would be without these currents of population in and out of the state. Nevertheless her standing in the New England sisterhood is an enviable one. Thus the insane enumerated in hospitals in 1910 per 100,000 of population was as follows[p] (Statistical Abstract, 1914, p. 59):

Maine	169.5
New Hampshire	211.1
Vermont	278.1
Massachusetts	344.6
Rhode Island	229.1
Connecticut	321.1

drunkenness. I have it from court officials that these men are almost exclusively of foreign birth or of immediate foreign extraction. Ireland contributes incomparably more than the Maine country districts. Of the 98 commitments to the Maine State Prison in 1914, 44 only were of Maine birth (Report 1915, p. 48). Of the 17 cases of alcohol insanity committed in 1914 to the State Hospital, 5 were of native stock, 10 of Irish descent. All were committed from the cities; none from the country districts (Augusta and Bangor State Hospital Reports, 1915, p. 15). The Portland overseers for the poor reported (Police Report, 1914) in city almshouses 143 of American birth (including Irish-American), 147 of Irish and 60 of other nativity. Police lodgers in 1914 were, of Irish birth, 527; of American, including Irish-American, 4006.

[p] The insane admitted from rural communities to hospitals was for the New England states as follows (Abstract of Census of 1910, p. 53):

Maine	61.2
New Hampshire	75.2
Vermont	80.2
Massachusetts	118.2
Rhode Island	250.6
Connecticut	153.2

Sentenced persons confined to penal institutions in 1910 per 100,000 of population were (Ibid., p. 58) in

Maine	98.3
New Hampshire	118.
Vermont	111.
Massachusetts	199.3
Rhode Island	134.4
Connecticut	136.3

When one arranges the rank of the New England states by ratio of prisoners to population the relatively alcoholized southern half of New England, especially Massachusetts with its bankrupt high-license-local-option system, offers an extremely ill showing beside Maine and Vermont. Massachusetts is the fifth state in the Union in ratio of prisoners to population, Rhode Island, 14th; Connecticut, 20th; New Hampshire, 37th; Maine and Vermont, 41st and 44th respectively. (Dept. of Commerce, Bureau of Census, 1904, p. 14.)

Both *a priori* and from experience with alcohol prohibition elsewhere one would expect a considerable *plus* of favorable statistical material and *minus* of unfavorable in Maine. The general convergence of the statistical data displayed above seems to answer to such an expectation. Certainly it should give pause to the exuberant unveracity which affects to see in the Maine prohibition law a positive injury to the state.

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2. A. Wing, Maine's War Upon the Liquor Traffic, p. 12.
3. Cong. Littlefield, *Christian Endeavor World,* June 13, 1907.
4. Neal Dow's Reminiscences, p. 88.
5. Published in a Temperance Broadside of the time.
6. Speech at Winthrop, Me., Dec. 6, '77.
7. *Civic League Record,* May, 1908.
8. *Boston Post,* Feb. 17, '79.
9. Neal Dow's Reminiscences, p. 178.

II

THE ALCOHOL INVASION OF MAINE

STRANGE as it may seem the adoption by overwhelming majority of the Fifth Amendment prohibiting forever the manufacture and sale of intoxicants marked an unfavorable turning-point in the history of the law. This fact was due chiefly to out-of-state influences. In the early eighties amendments had been adopted in Kansas, Rhode Island, the Dakotas, and Maine. The alcohol capital alarmed at this tendency mobilized its financial and political resources to check the movement. The National Protective Association was organized in 1886. Prohibition amendments went down to defeat in North Carolina, Tennessee, Oregon, Michigan, Ohio, Nebraska, Texas, West Virginia, Massachusetts and Pennsylvania. The law was repealed in Rhode Island, Iowa, and a little later in South Dakota. Law enforcement in Maine became in the following period distinctly laxer.[a]

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[a] Rev. C. E. Owen writing on "The Liquor Situation in Maine" in the *National Magazine,* April, 1910, calls attention to one factor which contributed to the reaction at the end of the eighties. "The effectiveness of the law during its early history," he says, "is not in question." About five years after the adoption of the amendment there came a great industrial awakening to Maine. Im-

Various explanations are given of this. The temperance party feeling that the placing of prohibition in the state constitution had given to prohibitory legislation a character of permanency relaxed their vigilance. The defeat of Mr. Blaine, the leading Maine statesman, in the presidential election of 1884 by the party Prohibitionists of New York State (many of them bolters from the Republican ticket), embittered those Republican politicians in Maine who had never had more than an indifferent interest in the law. It is highly probable that the pressure of national liquor interests upon the Republican national headquarters has been a leading factor in nullification of the law in Maine. The brewer has long sought to ride as *mahout* on the Republican elephant. He and his friends have been large contributors to the funds of the party. Maine's state election comes in September and it is always felt desirable to carry it for the effect on the succeeding national election in November. For this reason the National Committee of the Republican party is ac-

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mense pulp and paper plants, some of the largest in the world, construction of 1100 miles of railroad in twenty years and the development of electrical power plants brought into the state thousands of homeless men. "The number of men who annually go through Bangor on their way to and from the woods, railroad, and pulp mills far exceeds its population. Seventy per cent of arrests in that city are non-residents. In Bangor their base of supplies, they plan to spend from three to six weeks of vacation time and they seek such entertainment as their early tastes require. To supply liquor to these men came to be the regular occupation of a small but desperately persistent gang in Bangor and vicinity."

customed to send considerable sums into the state to carry the gubernatorial election. The politicians of the dominant party in Maine have, no doubt, understood the situation. Neal Dow, whose opportunities for information were presumably adequate, said in an interview in the *Boston Globe,* Jan. 13, 1885: "The Republican policy seems to be to assure the powerful liquor interests of the West that they will have nothing to fear from the accession of the party to power in 1888 (i.e., in the nation). The electoral votes of Maine, being few, are of small importance when compared with those of the great whisky and beer states. It is with this in view, I think, that the Republican ring seems to perpetuate the existence of the low secret grop shops in Maine in the expectation that the friends of temperance will, in the end, be tired of the ceaseless struggle" . . . and in the *Chicago Times,* March 10, 1888: "The Republican party, which is abundantly able to stand without the liquor vote or influence in the state, has been menaced by the liquor interests of the West. They have shaken their finger at Maine Republicans as much as to say 'You leave our brethren alone or we'll kill your party in Ohio and Wisconsin and Illinois.'" The leaders of the Republican party between '84 and '88, outside of power for the first time in a generation and anxious above all things to reconquer their national position, may well have said to the brewers and distillers in view of the smashing defeats which the drink interest was inflicting upon the temperance party in the last half of the eighties (Neal Dow in the *Boston Herald,* March 11, '85): "You need not fear our accession to power in the nation. Look at

Maine where the legislature is unanimously Republican, where the people by a great majority have voted for prohibition. We have snubbed and insulted the temperance men and driven them away."[b]

In the state itself the illegal drinksellers and their friends began now to abandon their natural habitat, the Democratic party, and to pass into the Republican fold. Sullivan, Keating, Kelly and numbers of others of the same stripe made their peace with the Republicans bringing to them large political contributions as well as voting strength. (*Portland Herald,* August 18, '88.) The Republican managers in the cities were not slow in responding. The response of the alcohol statistics also followed directly. The commitments to jail in 1884 for drunkenness were for the whole state 1119; in 1898, 4704, an increase of 145%.

It must always be remembered that whatever drunkenness and illegal sale survive in Maine exist because

[b] One can often hear the rustle in the grass when one does not see the snake itself. There is evidence from other states which indicates that state situations have been influenced by national political considerations. The Republican party in Iowa was in the eighties anxious to put Senator Allison into the presidency. But with Iowa committed to prohibition his prospects were decidedly handicapped in the liquor states. This fact probably made its contribution to the breaking down of prohibition in Iowa. (Feylandt, p. 352.)

In 1910 authorized representatives of the Ohio Liquor League went to Washington and told the two Ohio senators that unless President Taft used his influence in the Ohio legislature for the passage of the Dean Law (repealing county option) the power of the Ohio Liquor League would be used to break the administration. (N. H. Issue, April, 1910, quoted from Boston *Herald.*)

of forces outside the state. Not a drop of intoxicating liquor is manufactured in Maine.[b] On New England farms one frequently sees poplars or willows springing up in the fields alongside the stone walls. These take their origin and strength from roots which pass under the walls from adjacent pastures. There is no vested liquor selling interest in Maine. The men who have periodically engaged in surreptitious sale have been backed by out-of-state wholesalers. They have had little or no stock, ordering their supplies from day to day from Boston.[c] Boston runners for whisky firms have had the names of all citizens in the state in catalogue. The remotest hamlet has been flooded with liquor circulars through the United States mail. Un-

[b] That the grip of the alcohol interest which holds Massachusetts and Southern New England as in a vise is broken in Maine and in Vermont (where manufacture is prohibited and sale confined to only 14 remaining places) is obvious from the statistics of the Internal Revenue Receipts for 1915.

	Aggregate Receipts.	Per capita.
Maine	$29,755.97	$ .04
New Hampshire.....	642,456.54	1.49
Vermont	6,085.98	.017
Massachusetts	5,522,287.03	1.64
Rhode Island.....	885,946.90	1.63
Connecticut	527,292.00	1.47
The United States....	223,883,813.00	2.43

[c] When the Sturgis law went into operation Sheriff Pennell ordered all drink in Portland shipped back to Boston. It amounted to less than two freight car loads, beer barrels and all—hardly more than enough to stock an ordinary Boston saloon. Numbers visited the wharf to see the unusual accumulation bound homeward.

ordered sample packages have been sent by express into Maine villages without charge. In short the trouble in Maine has been not with the Maine prohibition law but with the Massachusetts license law. State alcoholism, like gout, can be alleviated, not cured, by local treatment.[d] Every proof of "failure" in Maine is but one more argument for national prohibition.

The earliest intimation that I can find that out-of-

[d] The harried Bonifaces of Maine have opportunities, when elections are favorable, of selling stronger liquors over their near-beer counters or in their squalid cigar shops. At other times they are hard put to it. When the hundreds of tax receipts are adduced as proof that prohibition is not working one must remember first that as Sheriff Cram testified before the Canadian Commission (p. 372) the larger part of the holders of these receipts are permitted soft beer sellers; secondly, that this relatively small illegal sale is carried on often with great difficulty. In 1910 the deputies removed a bowl in the toilet room adjoining the office of the Eastern Express Co., Portland. This disclosed a man-hole similar to the street entrance to a sewer. A step ladder led down to a subterranean room with lights, tables, chairs, lounge and other comforts for the employees who sat out long days waiting for signals for passing liquor up through the bowl. In the hearing before the Canadian Commission (p. 542) a witness who declared that "he had never been in favor of prohibition" was asked: "Do you believe that the prohibition law has had the effect of causing more drunkenness on Sundays?" "Yes," came the answer, "I was told yesterday by a gentleman of veracity that last Sunday he passed a boiler and as he got close to it he saw a hand come out of the furnace door with a glass of beer. He found a man inside with a barrel of beer peddling it."

It is common for these Ishmaelites to have their stock

state money was being used to bribe the sheriffs not to enforce liquor laws appeared in a letter in the *Portland Argus* of May 15, '89 in which Neal Dow suggests that "boodle" might explain why sheriffs seized liquor but did not bring sellers into court. In the nineties and later, however, Boston corruption of Maine sheriffs became widespread and systematic. "Scarcely a sheriff takes office" so I am informed by one who has observed this Massachusetts border-ruffianism at close range "who is not approached by some representatives of Boston liquordom." Illegal sellers in Maine cities have for years been obliged to buy their stocks from certain Boston houses at enhanced prices and grafting sheriffs have received from the Boston wholesalers the difference between this and the usual price. The check received from Boston is

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in a pitcher over a bowl of ammonia into which it can be broken in case of raid. The whiskey smell is thus lost. Devices have been many, so many that back in the eighties an inventive resident of Munjoy Hill supported himself by manufacturing various kinds of traps at from $50 to $100 each. Certainly this profession would not have flourished if drinkselling had not been pretty well restrained. One hears of beer running out of a faucet alternately with water by pressure on secret springs; of beer drawn out of a steam pipe; of a hole in the wall covered with a picture of Washington Crossing the Delaware, which hole is fed by a barrel in the attic, etc. All this and the at times more brazen sale ought to be repressed, no doubt. But one should not overlook its quantitative insignificance. The Report of the Board of Trustees of the U. S. Brewers' Association (1909 Columbus, O., meeting) confessed: "The total beer sale in the entire state (of Maine) would not keep one small brewery going."

cashed but returned to the sheriff afterwards in order that there may be no evidence out against him. The Boston wholesalers protect themselves from a second demand for payment by having these checks photographed. So little is the mutual confidence between the two parties. "We are informed on good authority," says the *Civic League Record,* Feb., 1912, "that the liquor dealers in Biddeford have been promised protection on the following condition. Each liquor seller is to pay the county three fines annually of $100 each and $10 a week to local parties. Secondly, all liquors to be bought by the sellers from the Wood, Pollard Company, Boston." Massachusetts breweries have been permitted to sell their beer through illegal dealers in Maine cities by giving to sheriffs a bonus of a dollar a barrel upon each barrel sold.[1]

In order to get pliable sheriffs into office the Massachusetts liquor power has systematically corrupted the politics of Maine cities.[2] They have sent large sums of money to local campaigns. The *Lewiston Sun* (Feb. 7 and 10, 1905) tells of one corruption fund which was gotten together in order to defeat the Republican sheriff of Androscoggin County in 1904. To this Cyrus W. Davis, who stood in close relations to the U. S. Brewers' Association,[e] is set down as contributing $240; the Portsmouth (N. H.) Brew-

[e] Mr. Davis when Secretary of State for Maine stumped West Virginia in the interests of the "wets." The *Parkersburg Advance* in an editorial entitled "Muckraking Maine" affirmed that he was working under the direction of George McDowell, agent of the U. S. Brewers' Association in Wheeling.

ing Co., the Coldspring Brewing Co., and the Elbridge Brewing Co., each $1000. A collection committee sent outside the state brought back $2870. The entire fund amounted to $8000. How degrading the effect of this intrusion of Massachusetts into the political life of Maine has been, appears from sample letters. The Portsmouth brewer Frank Jones once said of politicians in his brutal beer fashion that "the way to call hogs was to throw a little corn to them." When the hogs have once tasted it they are apt to squeal for more.

Lewiston, Maine, Feb. 25th, 1901.

Messrs. Frank O. Dame and Co., Boston, Mass.:

Gentleman:

Our spring elections come off Monday, March 4th. We are in need of funds to continue in office the present administration which must have proved satisfactory to your line of business.

Will you help us a little? Any contribution will be highly appreciated. Hoping to include your name among the list, we remain,

Yours respectfully,

REPUBLICAN CITY COMMITTEE.

Make check payable to W. S. Keene.

Augusta, Maine, Aug. 30, 1910.

J. P. Sprang and Co.,
Atlantic Ave., Boston, Mass.

Gentlemen:

It has been reported to the county committee that you were willing to assist it some, financially. We have the best chance for years to elect a Democratic sheriff and other county officers. In fact the prospect for Demo-

cratic success never was so bright in Maine as at the present time. In order to compete with the Republican Party it is necessary that we have funds on election day.

Any assistance which you may be able to give in this direction will be greatly appreciated and I think it is almost certain that in this county we shall elect our sheriff and other county officers.

Trusting that I may have a favorable reply, I remain,

Yours very respectfully,

L. O. TIBBETTS, *Chairman.*

That fall the Democratic party did elect the sheriff and the following two years liquor sellers in the county were evidently protected.[f]

In Gov. Haines' message to the legislature asking for the impeachment of some of these Boston-bribed sheriffs, he said: "The determined efforts of the liquor interests in the state and outside of it for the past few years have made this question acute in our

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[f] The liquor power outside the state has tampered with the Maine police as well as with the sheriffs. An ex-chief of the Portland police force tells me that an attorney of his acquaintance who was trustee of a person holding brewery stock in Portsmouth, N. H., went to a director's meeting at Portsmouth in the interest of his client. The brewers expressed to him their doubts as to the possibility of controlling the chief of police of Portland and asked his advice as to the best way of doing so. It has been a part of the system to make the city officials subservient to the out-of-state conspirators. It has at times gone so far that ex-liquor sellers have received appointment on the Portland police force and honest deputy sheriffs have had to avoid the police when making raids lest these latter should warn the illegal sellers.

politics." One finds constant illustration of this. The agent of a Boston wholesale liquor dealer comes to Waterville to live and takes an active hand in local politics. Another of his tribe, named Taber, an official of a Boston distilling company, transfers his voting residence to Rockland in order to work politically for the breaking down of prohibition. This man conducted a still hunt for the election of Plaisted in 1910, and was so pleased with the success of his efforts that he actually hired space in the *Boston Globe* to proclaim his triumph (See *Lewiston Journal,* Sept. 20, 1910). The insertion was headed with a photograph of the worthy and ran as follows:

"The one man who probably did as much, if not more, to bring about the results in the Maine election than any one else.

"Mr. Taber is a resident of Rockland, also secretary of the People's Association for More Just and Liberal Laws in Maine.

"His organization work extended all over the state into every nook and corner of counties, cities, and towns.

"He worked night and day to defeat the outrageous Milliken law and to convince the people that a governor who would approve such a drastic, unjust and uncalled for law ought not to be re-elected."

Boston liquor men have sent corruption funds to oppose legislation in the Maine legislature.[4] They have been on hand to interfere in criminal cases when their Maine representatives were involved.[5]

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[5] The first attempt to apply the nuisance injunction law was in May, 1899, in the case of a certain Waterville

Some time ago two important witnesses in Maine liquor cases disappeared having been presumably bribed to leave the state. Later it was learned that they had gone to Boston and had been given employment by two liquor dealers there, Messrs. C. H. Graves and Son, and J. P. Sprang of Atlantic Ave. They remained in this employ until the cases against the ten Maine liquor dealers indicted were *nol prossed*. It can hardly be a coincidence that the ten Maine illegal sellers on trial were customers of the above-named Boston wholesale liquor firms.[5]

The liquid culture of Boston has been sent into Maine in all forms and shapes from the little one-drink "sandpeeps," diminutive whisky vials,[6] which the S. S. Pierce Co. (*Hoflieferant* to the Boston Back Bay) sends for bootlegging to the large cargoes which are now and then smuggled by high-power automobiles or steam launches. The *Boston Herald* (Oct. 2, 1914) describes a big steel power boat loaded with $5000 worth of whiskey from Thompson and Co., 62 Broad St., Boston, and captained by a son of Erin, Michael F. O'Shea, which on the day previous had been driven by heavy seas inside Portland Head and confiscated by the Cumberland Co. authorities. At one time numbers of bogus express companies were organized in Boston which, taking advantage of a decision of a U. S. Supreme Court (American Express Co. vs. Iowa, U. S. 133) opened offices in

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blind pig named Barry. The *Kennebec Journal* affirmed, at the time, that the Massachusetts Wholesale Liquor Dealers Association wrote Barry to fight the case to the bitter end and to draw on them for the necessary funds.

Maine cities.[h] These were nothing more than the distributing centers for Boston bottled goods. The railroads have grossly and repeatedly violated the law which forbids the transit of liquors from point to point within the state. The Boston and Maine, an out-of-state corporation which had as its president for many years the notorious Portsmouth brewer Jones, has been at times a chief artery for bringing beer into Maine. The railroads have, on occasion, co-operated with law-enforcing sheriffs; during the terms of grafting sheriffs they have assisted illegal sellers. Thus one hears of liquors carried beyond the station to which they had been consigned and then later returned to the station; also of freight cars which had been made liquor repositories and left on a side-track. One of the most important steps for the ending of this extra-state conspiracy against Maine would be, to enforce the law against these lawless common carriers. Sheriff Scully and his deputy Mr. Bisbee arrested, on one occasion, a station agent and threatened to take the engineers off a train and leave it standing on the track. This brought the railroad to terms directly.

[h] The *Civic League Record* (Oct., 1909) speaks of twelve express companies, most of whose offices are located in Boston wholesale liquor stores, "We learn from the Secretary of State at Augusta that many of these companies have not paid their tax for one or two years and have not made their annual report." The method of operation was to import considerable amounts of liquor from Boston into Maine under false names and later to substitute the names of Maine purchasers. The Sturgis Commission recommended the exclusion of these bogus Boston companies from the state.

Maine newspapers are by law forbidden to sell space for the advertisement of intoxicants. These advertisements, however, until recently gained entrance to thousands of Maine homes through the Boston dailies. The *Boston Post,* which has perhaps the largest out-of-state circulation in Maine, was long blanketed with brewery advertisements. These would have quickly disappeared if a fair word were spoken for the Maine law on its editorial page. In fact the Boston press as a whole has constituted an important link in the plan for breaking down Maine prohibition. It barks disapproval in chorus in its whole gamut from the raucous yelp of Hearst's *American* to the spaniel note of the *Transcript.* The newspapers in Maine with few exceptions (which in certain instances are undoubtedly alcohol-subsidized) support the law. The alcohol capital abroad seeks to influence it without much success. One picturesque illustration—some years ago country editors all over Maine received from Fourteenth St., New York, checks for six months' subscription and a copy of Bishop Potter's alcohol-pickled volume, "The Drink Problem."[i]

It is said that that garden pest, the bind weed, can grow only in regions where a certain moth, necessary for its pollenization, is to be found. The alcohol

[i] Of Potter's statements in regard to Maine, Senator Frye wrote in 1902: "I have never heard of the statistics referred to by Bishop Potter nor do I believe that they exist." And the secretary of the then governor of Maine, Gov. Hill, wrote: "The statements of Bishop Potter are false. No one here is aware of such statistics as he refers to."

capital outside of Maine could not root its creepers in the state if it were not for the co-operation of politicians within the state. For years the Republican managers in the larger cities blocked enforcement and assessed illegal sellers to the profit of their campaign funds. In this period Portland politics resembled in certain particulars those of New York and other graft-afflicted license municipalities. When Mayor Leighton of Portland announced that he would use the police force of Portland to repress illegal selling (the sheriff's deputies had hitherto attended to this function exclusively, the police arresting drunks) he is said to have been rebuked by the Republican City Committee for interference.[7] Other mayors have themselves hindered enforcement. A motion in the Portland City Council to instruct the mayor to enforce, was defeated by Mayor Boothby's casting vote. Mayor Pattangall of Waterville is reported as having publicly stated that he was permitting the liquor law to go unenforced at the request of certain citizens.[8] Mayor Curtis of Portland who in a speech in Skowhegan had announced the old-fashioned fatalist sentiment "We have got to have rum," adding "So let us get the revenue and it will help us to run our schools," wrote to his chief of police, Mr. Walter H. Dresser:

Dear Sir: Referring to our conversation regarding police interference with the sheriff's duties,[j] I assume we both are agreed in the opinion that the city's interests in their entirety are not served by such action and that

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[j] (i.e.) Police co-operation with the sheriff's deputies in enforcing the prohibitory law.

in many ways it is detrimental to conservative and sane government. . . . You are aware that I am and have been opposed to such action.[9]

Mayor Mullen is reported in a speech as saying that he had not tried to enforce the law in Bangor because of the expense such enforcement would entail. Again addressing the Women's Alliance in the Unitarian Church in Bangor, he remarked with upward roll of eyes:

"In your petitions to the Throne of Grace you say, 'Lead us not into temptation' and then immediately proceed to enact laws which put a high premium into the hand of those who have this enforcement in charge. . . . I claim the law puts too great a temptation before our officials and is a much greater sin than licensing the evil."

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1. *Civic League Record,* Nov., 1915.
2. *Maine Legislative Record,* 1905, p. 332.
3. *Lewiston Sun,* Mch. 18, 1901.
4. *Maine Legislative Record,* 1903, p. 315.
5. *Civic League Record,* Oct., 1909.
6. *Civil League Record,* June, 1912.
7. *Civic League Record,* Dec., 1908.
8. *Civic League Record,* April, 1912.
9. "How the Three Stand."

III

THE LAW AND THE JUDGES

IN the judgment of many careful observers the crux of the whole difficulty with enforcement is to be found in the courts. While before the middle eighties of the last century complaints were not wanting of court action this was nevertheless of a more satisfactory character than later. Judges seemed to have been in sympathy with the law and its purposes, and their sentences were of a severer type. But contemporaneously with the systematic tampering with sheriffs by the out-of-state liquor capital and with the probable assent of the national political organization to a gradual extinction of the Maine law there was apparent a lowering of the standards of judicial action. This tendency is frequently attributed to the influence of Chief Justice Peters, a gifted but dissolute man, outspoken in his hatred of prohibition and insidious in his efforts to undermine it. To him the state owes the devising of the illegal Bangor System of fining[a] and to him also is attributed the famous "joker"

[a] A Bangor lawyer writes in the *Bangor News,* Sept. 14, 1909: "As an adroit system to turn money into the pockets of us lawyers the Bangor System, as invented by Judge Peters, was equal to any device Tammany Hall ever invented."

which broke down in a surreptitious fashion the mandatory jail sentence legislation of 1891.[1] His great influence over both bench and bar was distinctly demoralizing and for a decade and a half law enforcement in Maine suffered from it.

In their decisions regarding the law itself Maine courts have invariably upheld its provisions. But in their handling of offenders against the law they appear, in the period to which we refer, pretty widely to have betrayed its provisions. An examination of judicial sentences for the period 1900-08 when things were going better than in the nineties, disclosed the fact that respondents in liquor cases were spared imprisonment by the exercise of judicial discretion in about 19 cases out of 20; in some courts in 99 cases out of 100.[2] The average sentence of imprisonment in the supreme and superior courts of Maine for the few liquor sellers convicted was, for the twelve years, 1899-1910, but 28 days, 21 hours.[3] Furthermore the aggregate annual fines of all liquor sellers convicted in Maine in these years averaged less per year than the lowest license fee in New England. (In 1899-1910 inclusive, in cases before the Superior and Supreme Court, $185.63.) Here is clearly a straining of the quality of mercy to the breaking point. The Constitution of Maine says, Article Fifth: "The legislature shall enact laws with suitable penalties for the *suppression,* of the manufacture, sale, and keeping for sale of intoxicating liquor." This is the only clause in the constitution in which such a mandate is embodied. If the penalties attached to certain of the violations of the prohibitory law are small, in the case of others they are adequate to have

long ago, with proper court co-operation, rooted out the remains of the illegal traffic.

The law makes it mandatory that each subsequent conviction for single sale or common seller shall be punished by fine of $200 and costs, with four or six months' imprisonment, and prescribes a fine of $100 for a magistrate who neglects to allege previous conviction in his warrant if he knows that the respondent has before been sentenced for the same offense. "We have never known," says one whose acquaintance with court procedure in such cases is almost unique, "of the penalty plainly prescribed by the law being enforced against a liquor seller convicted a second time for single sale and in hundreds of cases within our knowledge old offenders up for the fifth or tenth time as common sellers have been fined only $100 or half the minimum amount named in the statute. Trial justices, recorders, clerks, and judges have habitually made warrants for first offense for single sale or common seller against men whom they knew had been previously convicted of the same offense and never within our knowledge has such a magistrate been prosecuted."

The law forbids continuance for sentence beyond one year. The Maine courts have affected to see in this provision an unconstitutional intrusion upon their judicial rights and have paid little attention to it. In 1907 it was estimated that about 75% of the cases were continued from term to term contrary to law. The courts in this way have practically usurped the executive right of pardon. In the earlier days Judge Goddard distinguished himself by erecting a special docket for rumsellers, entrance to which in most in-

stances amounted to dismissal of case. Neal Dow, after recounting (*Portland Press,* Sept. 21, '87) the hundreds of cases marked "continued," "not to be brought forward without special order of court," etc., remarked: "There is probably some law authorizing this mode of pardoning criminals but I do not know where it is to be found. The original Maine law left no discretion to the courts which were expressly forbidden to diminish the penalties of fine and imprisonment in any way. The cases were not to be continued for trial or sentence but were to take precedence in the county of all other cases except those in which the parties were in jail awaiting trial. At the end of the first year of the Maine law the liquor traffic was reduced to lower proportions than it has today and this arises largely from the discretion permitted to the courts and the still larger discretion assumed by them for which there is no law." And again in the *Portland Herald* (Nov., 1893): "I have carefully preserved many rum dockets and I find there a great many cases continued. Against one rumseller there were eight convictions on one docket, all of which were continued from term to term, finally disappearing from the docket. This scandal was so great that the courts were ordered by the legislature to have their rum dockets printed in the papers. This exposure to the public, it was thought, would deter the courts from such a practice but it has had little or no effect." The courts have, in fact, avoided the unpleasant duty imposed upon them by the legislature by publishing the number of the case instead of the names involved.

In hardly one liquor case in one hundred have

defaulted bonds been recovered. The county commissioners have neglected to sue the bond of county attorneys and the judges have rarely issued bench warrants to get hold of the offender again as is their bounden duty. The practice of jumping bail in order to escape jurisdiction before the more conscientious judges has been exemplified repeatedly in the Maine courts. In the 1913 trial of the sheriffs bits of evidence on this point came at various times to the surface: "Ques. Is it an uncommon thing in your experience as clerk of the courts to have the respondents stay away from court? Ans. It is not. Ques. It depends a little on what judge is coming, sometimes, doesn't it? Ans. A good deal. Ques. Rather more than who is county attorney? Ans. A good deal."

In the cross-examination of County Attorney Hines: "Ques. Have you known before you were county attorney of liquor sellers who were under bail not appearing in court and allowing their case to go by default? Ans. When certain justices came to our court they certainly defaulted and jumped jurisdiction."[7]

The strange thing about the situation is that the appellate courts from which one would expect a higher standard of action seem to be tainted equally with those of first instance. Indeed they have without apparent cause repeatedly failed to sustain the sentences of lower courts.[c] Thus in 1912 thirty-eight

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[c] Legal expenses are greater in upper courts than in lower. This would naturally act as a deterrent to appeal by these criminals if the upper courts confirmed sentences more generally.

defendants in liquor cases were brought before Judge Shaw of the Waterville Municipal Court. In every case fine and imprisonment were imposed. One respondent accepted the sentence and went to jail; thirty-seven appealed to the Superior Court. Thirty-five of these were allowed to settle by paying fines. In this fashion appeal has been encouraged from parties who have sought, not to establish their innocence, but to secure lighter sentences. The natural result has been to choke the courts with liquor cases, these being in the Supreme and Superior Courts double in number those of all other sorts together. It is hardly conceivable that such a state of things could exist if the courts had dealt with such cases in the spirit of the Fifth Amendment. Further, honest prosecuting sheriffs and county attorneys have been discouraged from doing their duty by this attitude of the judges. For example, Gov. Haines' appointee in Penobscot County honestly and faithfully enforced the liquor laws until the September term of the Superior Judicial Court (1913) relieved persistent violators from the jail sentences imposed by the lower court. The consequence was a collapse of enforcement.[d]

This particular case is a more than ordinarily unpleasant illustration of the proceedings of certain of

[d] This misplaced leniency encourages illegal sellers to believe themselves the subject of persecution on the part of law-enforcing sheriffs and has had serious consequences for these last. The murder of Sheriff Hillman of Aroostook County is explained in this way. Deputy Sheriff Foss of Washington County has been threatened with a like fate. "Let up or you'll get what Hillman got" was written on a small coffin laid on his doorstep.

the higher judges in Maine. Justice Haley is described on this occasion as having opened a veritable bargain counter for law-breakers. Nearly two hundred Bangor and other Penobscot County offenders were allowed to settle their cases with fines. The repeated motions of the county attorney that the sentences of the lower court be affirmed availed nothing. Equally impotent were the protests of the sheriff. Indulgences were sold to all and sundry. "When court adjourned at night the clerk was literally buried in greenbacks and checks, and it was estimated about $15,000 had been turned into the county treasury. . . . No jail sentences were imposed. . . . As soon as it became known that Associate-Justice Haley was not affirming jail sentences and that cash settlements could be made, there was a rush of liquor dealers and their lawyers to the court-house. In many instances the respondent 'had gone out of business for good.' Others 'had sick relatives.' The excuses were many and varied and about all of them were accepted" (*Boston Herald,* Sept. 22, 1913). "The great room swarmed with dealers, their counsel, their friends and sympathetically interested spectators. Attorneys were thicker than flies around Clerk Stephen's desk and case after case was dismissed in a few mumbled sentences, the waving of a roll of greenbacks and the hurried scratch of a pen" (*Bangor News*).[e]

[e] The *Civic League Record* for February, 1907, gives this picture of Judge Whitehouse's court at Belfast. "No liquor cases were tried at this January term although 64 were pending. So far as an unskilled observer could observe no liquor cases were before the court in the

When the Secretary of the Maine Civic League protested against this infamy he was sued for criminal libel by Justice Haley, obliged to give bonds double that required of the keeper of a liquor nuisance, and sentenced to four months imprisonment. The case was, however, finally dismissed upon technical grounds.

It would not be fair to quote as characteristic such minor incidents in Maine's judicial history as the following yet they have a certain significance. A Bangor judge revokes twenty-two jail sentences which he had earlier imposed and settles with fines. One is not surprised to find this same judge president of a cigar company supplying illegal sellers with cigars. Impeachment proceedings were instituted and the counsel for the prosecution presented eighteen cases of alleged discrimination by the municipal court in favor of saloon keepers who were customers of this Madine Cigar Company. One reads of another judge de-

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regular way. At one time the county attorney and the attorneys for the rumsellers were hovering about the judge apparently arranging matters, but this consultation was carried on in such subdued tones that nearby intent listeners could not tell what was being done. The rumsellers who came to arrange their matters were not arraigned in court. So far as the writer could learn they came up into the law library the way the judge and court dignitaries do and there did business with the Supreme Court of Maine. Nothing was done with any liquor case in open court so openly that a person of average intelligence would know that a person was being prosecuted for selling rum. Evidence was available to prove nearly every case. In all 52 cases only 2 of the respondents were under bail."

fending a reputed liquor seller, one Wolfe, in Portland the day after he had condemned him for illegal possession in the Biddeford Court; of a third returning seized liquors to Rockland sellers and ordering them sent out of the state (a direct violation of law on his part). A fourth allowed the *nol prossing* of the case of a certain Martel who had been tried and sentenced five years previously, in spite of the fact that a criminal case decided by a jury and followed by the imposition of court sentence by the judge is no longer in the possession of the court for court action unless a new trial is ordered by the law court or exceptions allowed. A fifth sentenced a certain Houlehan to 180 days' imprisonment. The appeal taken was withdrawn and the judge, contrary to the express stipulation of the law "to abide by the sentence appealed from" (R. S. Maine Ch. 133, Sec. 19) commuted the jail sentence to a cost and fine sentence only.[9] In 1900 a judge in Aroostook County actually refused to give a jail sentence on the ground that the county attorney had not notified the illegal seller that he was going to ask the court for a jail sentence. The Maine bench has certainly had its quota of Dogberrys. On the other hand no finer or correcter or more conscientious judges could be found than Justices Cornish, Emery, Spear, Savage, Hall and Bonney.

When one attempts to explain the so frequently unfair attitude of the Maine courts in the period referred to one finds much that is perplexing. Neal Dow wrote in 1886 (*Argus,* July 25) of a certain judge: "The judge of the Superior Court is an hon-

orable and high-minded man. Now in the name of all that is decent what is the power behind him (if any) or the secret influence (if any) which can compel him to manage this dreadful business in such a manner that practically it seems to extend to it the protection of law." This is a question which one finds oneself asking over and over again. What has made it possible for the *Lewiston Sun* (Oct., 1903) to say: "We believe that if the Supreme Court of Maine had for the past quarter century been true to the cause of the people of Maine in enforcing the law, Maine would now be maintaining the respect of the other states and of her own people with a genuine prohibition"; or for a legislator (Mr. Dunn) to assert in the Capital at Augusta: "It is upon the courts that the sin of nullification rests. . . . We have this law upon our statute books which has been repeatedly nullified and the interests of the common people of the State of Maine publicly and repeatedly insulted by the Supreme Court of Maine."[10]

Some visualize this attitude of the courts as but one more expression of that characteristic inner conflict of democracies, the struggle of the people against the politician. Congressman Littlefield was wont to say that while 75% of the Maine people supported the Maine law 75% of the members of the city, county and state party committees were opposed to it. The Committees practically nominate the governor; the governor appoints the judges. The bench has seemed to reflect the opinion and purposes of the politicians as the juries of the people. For it is a striking fact, contrary to reports current outside of Maine, that the

juries have been as dependable to convict as the judges undependable to sentence with due severity.[f]

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[f] It would be impossible to find a more untrue statement than that of the Committee of Fifty's expert on this point:

"There is no reason to believe that the courts deal with liquor cases otherwise than on their merits. The discrepancy between the number of persons brought to trial and the number finally convicted must therefore be explained on general grounds, although it seems natural as has commonly been asserted that juries are not so willing to bring in a verdict of guilty in liquor cases as in others."

Anti-prohibitionists as prohibitionists lay the blame of nullification on the courts. Neal Dow expresses the feeling of the prohibitionists in the words "If there is anything more injurious to the country and more demoralizing to the community than dishonest and treacherous courts I do not know it" (*Portland Herald,* Dec. 21, 1893). Mr. Pattangall, the ablest of the anti-prohibitionists, on the other hand, apologizes for the judges and thereby acknowledges them unsatisfactory. In his defense of Sheriff Moulton in 1913, he says:

"Why they say, such a man came into court, Brownrigg or whatever his name, or Sullivan, came into court last year and paid a fine, or McGlinchy paid a fine and went right back to selling. Yes, but do you think the sheriff's department had anything to do with that? Nobody is going to criticise Judge Connelly . . . but when the evidence came before Judge Connelly he exercised that wise discretion which he had a right to exercise. *Suppose he had sent one of them to jail for a year. Then he wouldn't be back in business.*

". . . to get what we call enforcement . . . you have got to have the co-operation of your sheriffs, of your county attorneys, of your judges. They must work together. There is no use for one to go off on a tangent and try to do different than the others and *you know by*

On this point the consensus of competent opinion is practically unanimous. To the clack of the omniscient New York *Nation* asserting that "Maine juries will not convict," Neal Dow replied (*Union Signal,* April 21, '92): "We have never had the least difficulty with juries. They are always ready to convict where the evidence is plain." Judge Walton of the Supreme Court confirms this statement (*Evening Express,* Jan. 19, '87): "I can remember the time when there was a great difference of opinion with regard to the benefits of the prohibitory law. Jurors would enter upon the discharge of their duties with such a prejudice that they could not be relied upon to do their duty as jurors. But happily for the course of public justice that was long ago, and for many years past I have found that juries were to be trusted to try liquor cases, and when the evidence has been sufficient they have been as ready to convict."

The opposition of people and politician has its counterpart in the opposition of common sense and culture. The plain people have gone to the right solution of the drink problem with their usual unerring instinct. The cultivated with an equally unerring

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the court records of Cumberland County that your sheriffs, your county attorneys, and your judges have been working together. . . . I am not criticising the county attorney or the court. . . . I am simply saying that they all work together not to violate the law, not because they have not as much respect for law as every individual member of his convention. . . . They have respect for law but they have to work it out as some of you have worked it out when you were placed as they are placed, *when you weren't working on ideals*" (*Maine Legislative Record,* 1913, p. 1788).

instinct have dabbled in all the various wrong ones. Prohibition they have slurred as out of date and provincial. It is not improbable that Maine judges have been affected by this point of view. They may have been led to think of the Maine law as the tail of a receding movement instead of the leader in an incoming one, indigo legislation soon to be obsolete and therefore properly to be slighted. They may have supposed New York editors cosmopolitan and Boston transcendently cultured and have accepted therefore Boston-New York scorn of prohibition as an expression of modern and cosmopolitan thought.[g]

[g] Much might be said concerning the opposition of cosmopolitanism and prohibition. There is indeed a cosmopolitan underworld of lust and alcohol which is hostile to prohibition. One gets a glimpse of the "Manhattan Café" in naughty, nullifying little Bangor where a drunk with greenbacks between his several fingers, in real wicked cosmopolitan Bowery fashion, disputes with a waiter about payment for drinks. And there is a cosmopolitanism of heart and intellect which is friendly to prohibition. When the Maine law was hanging in the balance in 1911 the State Federation of Labor, egged on by the altruistic cigarmakers, threw its influence to repeal by the vote of 32 to 12. But such Socialist and labor leaders in the great world outside as Emile Vandervelde and Philip Snowden and Arthur Henderson and Will Crooks were appealing in the same crisis to the Maine people to retain and perfect their law. President Eliot of Harvard has violently assailed this un-cosmopolitan law (*Atlantic Monthly,* Feb., '97). But the head of a greater university, a savant of the front rank, Dr. Weichselbaum, the Rector of the University of Vienna, was provincial enough to place his name beside that of Vandervelde as did Dr. Westergaard, the Rector of the University of Copenhagen and such leaders of

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1. *Lewiston Journal,* Sept. 14, 1907.
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3. *Civic League Record,* Oct., 1912.
6. Mr. H. N. Pringle.
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8. *Civic League Record,* Sept., 1913.
9. *Civic League Record,* Oct., 1909.
10. *Maine Legislative Record,* 1912, p. 453.

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international thought as Profs. Kraepelin of Munich, Kassovitz of Vienna, Masaryk of Prague, Vlavianos of Athens, Sims-Woodhead of Cambridge, von Froriep of Tuebingen, Bleuler and Forel of Zurich, Frey Svensson of Upsala and Reinitzer, the Rector of the Royal Polytechnic at Graz in Austria.

IV

THE LAW AND THE POLITICIANS

IT is often suggested that the reason enforcement has been lax at certain periods and places is that public sentiment does not favor the law. As far as Maine as a whole is concerned the evidence runs in the other direction. The prohibition law of '51 was repealed in '56. The people immediately got after the politicians. Only 5 of the 96 members who had voted for the repeal bill were re-elected to the legislature. In 1858 came re-enactment (28,865 votes to 5912). In 1858 and 1867 the legislature allowed the people to express their opinion on amendments to the law. These were confirmed in both instances by overwhelming majorities. In 1884 the amendment prohibiting forever the manufacture and sale of intoxicants was added to the state's organic law by a vote of 3 to 1 (70,783 to 23,811) in the largest vote ever cast on a Constitutional Amendment. All the cities except Lewiston voted for the amendment. Even Bangor gave a majority of 542. Some of the smaller towns failed to register a single vote for the rejection of the amendment. Every county voted affirmatively.

In the early days the Democratic party was in hardly disguised opposition in spite of the fact that the law had been passed by a Democratic legislature

and signed by a Democratic governor. Later the masses of the party were reconciled to the law. In 1877 the Democratic Convention voted down a license resolution with cheers and practical unanimity.[a] In the N. Y. *Tribune* for Aug. 12, '82 Neal Dow wrote: "The Democratic party in Maine has for many years ceased to object to it at the same time that it has repeatedly and emphatically repudiated the policy of license. So we have practically both political parties in the state on the side of prohibition." This, of course, refers especially to the rank and file. How earnest the spirit of the masses of the Republican party has been for prohibition comes out in accounts of the Republican Convention of 1906. There were 1301 delegates out of a possible 1440 present. Everybody had paid his own traveling bills. They did not come to nominate Mr. Cobb for his nomination was a foregone conclusion. They had heard that resubmission was to be proposed and they came to vote it down. Only 60 votes could be mustered for the step backward. Between 1200 and 1300 voted for the state's now traditional policy. Here spoke the substantial sentiment of Maine. One should set in

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[a] Again in 1884 an attempt to introduce a local option resolution in the Democratic State Convention was received with shouts of disapproval. In the Democratic Convention of 1890 a resubmission plank was defeated by a vote of 273 to 176. The candidate for governor died and a second Democratic Convention was called. This was while the farmers were busy and a license resolution was crowded through by a vote of 145 to 99. As a result Burleigh, the Republican, received the largest majority which had been received since 1866.

contrast the Resubmission Convention three years previously in Bangor, described as the greatest assembly of law-breakers, blind-pigs and gamblers ever gotten together in Maine outside the state penitentiary.[1] [b]

Petitions to the legislature have been overwhelmingly against resubmission. In 1903 35,000 signed against resubmission and 2000 for; in 1905 there were 5000 against and 61 for;[2] in 1907 20,000 signatures were sent in to retain the amendment and not one for resubmission. "Never have the people asked the officers to nullify the law. Never have the people condemned an officer for enforcing prohibition. The hypocrites of Maine are not found among the common people but among the politicians" (*Civic League Record,* May, 1911). One significant indication of the general feeling is Mr. Cyrus Davis' confession that the plan to make the initiative and referendum

[b] Men would not expose themselves to the following experiences if they were not in earnest about prohibition. Mr. Inch of Forest City, Washington County, prosecuted an illegal seller. His store with $7000 of goods was burned to the ground in return. A Portland manufacturer says that his temperance work cost him a mill which, with the attendant loss of business, left him $50,000 out of pocket. A Washington County man insists that alcohol malignity turned one of his mills into ashes. Another mill owner who followed up illegal sellers was obliged to announce that he would shut down his mill if he found any more spiked logs. Here a man loses an $800 barn; there tar is daubed all over the house of a trial justice. Mr. Goodhue of Fort Fairfield was accused of smuggling wool from Canada. It was found that liquor men had intrigued to get Canadian wool into the car by which he was shipping American wool.

apply to constitution as well as to statutes, was abandoned because of the strength of prohibition sentiment. This sentiment instinctively opposed a step which might endanger the security of the Prohibition Amendment.

When one considers the cities alone one must, of course, agree that prohibition sentiment is more tepid. The immigration of large blocks of alcohol voters from Quebec reinforcing those of an earlier date from Ireland has had an unfavorable influence. The balance, however, can easily be restored by a period of rigid enforcement. During the debate on the Sturgis Enforcement Bill Mr. Littlefield of Rockland put it shrewdly: "The opponents of the prohibitory law (say) you cannot enforce a law until you have public sentiment to back the law: the purpose of this measure is to manufacture the public sentiment."[3]

Favorable public sentiment enough there is and always has been. The trouble has been first in its unorganized character and in its lack of means for political expression. The Maine situation has its analogies all over the country. The professional politician everywhere thwarts and defeats public aspiration. The last of the nineties was marked in Maine by great uneasiness over the increasing nullification at the hand of this class. The Maine Civic League was founded in 1897 to oppose it. In Portland when the brazen grafting of Sheriff Plummer became known Sheriff Despeaux was elected with pledges to the temperance party. But the bait on the Boston tackle was too succulent and he went the way of Plummer. Then in 1900 there came a revolt.

Mr. Pearson, a party prohibitionist unendorsed by other parties and without newspaper support, was elected to the shrievalty of Cumberland County, receiving 6431 votes. Three thousand, seven hundred and ninety-eight Republicans and 1267 Democrats bolted their respective parties and by means of stickers put into office a man they could certainly depend upon.

The Maine ballot-law is so fixed as to make it difficult to split tickets. Nevertheless the outraged sentiment of the voters began now widely to manifest itself by cross-voting and by the election of enforcement sheriffs. Lincoln County, Republican and Protestant, retained the Catholic Democrat Sheriff Rafters for a series of years because of his enforcement activities. Sheriff Mooers, a Democrat, was elected in the strongly Republican Somerset County and proved so efficient as to find ultimately a place on the ballot of both parties. The election of six Democratic sheriffs in Republican counties in the year in which Gov. Cobb (Republican) was elected by a record-breaking majority could only be interpreted as a protest against Republican nullification by Republican voters who wished the law retained.[4] In 1910, in the general wreck of the Republican party, it was obvious that enforcement sentiment was again struggling for expression. Enforcement sheriffs were generally elected, nullifiers ran behind their tickets, enforcement Democrats were elected in Republican counties, etc. In 1912, when Gov. Haines was chosen, four counties elected enforcement sheriffs; four re-elected enforcement sheriffs; four put out nullifying sheriffs and elected enforcement

sheriffs and four re-elected nullifiers by a diminished vote.

Sheriff Pearson quickly brought to a close the nullification in Portland which his immediate predecessors had permitted. Soon no bar could be found in the county. Arrests for drunkenness dropped sharply. The number of vagrants applying for lodgings at the police station fell from 1837 in 1900 to 781 in 1901. The expense for maintaining the city's poor in 1901 was the smallest for years. This rigid enforcement was effected by one sheriff with a small force of four deputies and without any co-operation from the police force of Portland. A marshal of the city is quoted as saying in an impersonal fashion: "I think Mr. Pearson has done remarkably well. He took hold of the matter with energy and asked us for no assistance and has never intimated that he wanted assistance of any kind."[5]

But although the police department was neutral, the old alcohol-political ring of the city was not. It declared war to the knife on Pearson, threatened his life, tried to trap him with lewd women, offered him bribes, and finally succeeded in bribing and discrediting one or more of his deputies.[6] Money for travel in Europe was at his service if he would agree not to run a second time. It was rumored that liquor organizations outside Maine planned to spend $50,000 to defeat his re-election. This is not improbable for brewery interests outside the state had offered him through the Republican boss of Portland the sum of $35,000 to allow their two brands of beer to come in for one year. The strain of the struggle finally had its effect and the sheriff passed away a month

before the election of 1902. In this election and in that of 1904 the enforcement vote was divided, the nullifier Pennell slipped into office upon a minority vote, and things went back into the old bad course.

The unrest among Republican voters and their continued bolting to Democratic enforcement sheriffs brought Republican leaders to a realization that they were straining the patience of the law-abiding beyond the point of what was politic. In 1904, therefore, they reaffirmed their pledge of loyalty to prohibition and nominated for governor the Hon. Wm. T. Cobb of Rockland, one of the ablest and most attractive personalities in recent Maine life. Mr. Cobb is not of the too frequent folk in politics described by R. W. Gilder:

> "One thing they mean, another speak
> Bland phrases utter, tongue in cheek."

With characteristic rectitude he made the subject of enforcement prominent in his whole campaign. "The question has become the most important in the politics of the state," he insisted. "The law must be enforced in order that all law may be vindicated." The people responded to his appeal and elected him over Davis, the resubmissionist, by the splendid majority of 26,816.

The governor of Maine as compared with those of other states has been singularly ill-equipped to effect satisfactory law enforcement. The ideal arrangement to this end is described by Judge Putnam of Portland: "There should be one prosecutor. He should be the governor. The governor should appoint all the executive officers who enforce the law.

They should be responsible to him and he to the people."[7] [d] This is after the federal analogy—President, U. S. marshals and U. S. district attorneys. The power of removal of sheriffs for malfeasance by the governor which existed from 1820 to 1855 was taken away by constitutional amendment in the latter year. Impeachment by the legislature is a slow and roundabout substitute process. In order, therefore, to give Gov. Cobb a more effective instrument than was then at his disposal, the Sturgis Enforcement Commission was erected by the legislature of 1905. The provision of this law which gave power to gov-

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[d] In most states the attorney general is made the chief prosecuting officer and the several county attorneys or district attorneys are under his direction. In this state, however, the statutes only go so far as to say that he shall advise with the county attorneys" (At. Gen. Report, 1915, p. 178).

Mr. Eaton, whose bill to return to the governor the control over the sheriffs failed of enactment, read to the legislature extracts from letters from the governors of Minnesota and Wisconsin approving this control:

"I have never met with a positive refusal of a sheriff to enforce the law as directed by the governor."—Gov. Johnson of Minnesota.

"I honestly believe that the sheriff and district attorney are more apt to do their full duty knowing that the governor has the power of removal. I receive a great many complaints and invariably when I write to the sheriff and district attorney of a county they enforce the law. . . . It is my opinion that every state should have a law on their statute books empowering the executive to remove an official like the sheriff and district attorney upon proper complaint and hearing. There is no question in my mind that it will tend to more rigid enforcement of the law."—Gov. Davison of Wisconsin.

ernors to supplant a derelict county attorney by one of his own nomination, was declared unconstitutional by the courts. Other provisions arranging that enforcement deputies with powers of sheriff should be sent into counties where the prohibitory law was being nullified effected an immediate change in the situation throughout the state. Drinksellers everywhere ran to cover. The number of U. S. tax receipts paid in Maine went down from 1100 (1905) to 629 (1906) the bulk of these being for sellers of permitted non-intoxicating beer.[e] The painful anticipations of the drink interest outside the state were realized. For they had indeed fought, tooth and claw, against the enactment of this legislation. Mr. Sturgis of Standish remarked on the floor of the Maine Senate: "They say and there is no doubt about it that $5000 has been sent to defeat this bill. . . . It is a fact that the largest lobby has been at work that has been at work for years on a bill of this kind."[8] Through the legislation of this period the Republican party was committed to the course which it had earlier followed and from which it had drifted. This was undoubtedly Gov. Cobb's purpose and for this he will have grateful recognition in years to come.

There is no question but that, as Gov. Cobb stated in a famous speech at the Deering Republican Club (April 7, 1906), many who believed in prohibition and enforcement, among them some of the oldest and most sagacious leaders of the Republican party

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[e] The fall of spirits tax receipts was from 664 in 1905 to 130 in 1906.

doubted the wisdom of this particular piece of legislation. New England feeling intuitively shrinks from centralization. It was insisted that the door would be opened to the organization of other commissions, that there would be corruption, that the local authorities who were paid for doing the work would lie down on the Commission, that the state would experience large and unnecessary expense. In the elections of 1906 Gov. Cobb, although re-elected by the largest vote given a Republican candidate in a non-Presidential year since 1882, undoubtedly lost considerable support because of the Sturgis bill. The party leaders in alarm rushed a repeal bill through the legislature. Gov. Cobb, however, did not flinch. With the veto came the following words: "A repeal of the Sturgis law without substituting any similar or equally effective measure takes from the executive all power to enforce the prohibitory law when necessary and in my judgment protects and encourages the nullification of all law."

The Hastings bill which was passed by the following legislature constituted a further expression of the growing determination that nullification should cease. This bill can hardly be considered as other than formal censure of the courts on the part of the legislature. Jail sentences were made mandatory in second offense cases and county attorneys were forbidden to *nol pros* such cases except by special order of the court. The legislature of 1891 had passed mandatory sentence legislation which had been rendered nugatory by the clandestine substitution of "or" for "and" in a remote clause of the code. On a motion of the anti-prohibitionist, Mr. Pattangall, the word "and"

was restored. It has been suggested that his purpose was to induce a reaction against the law as this change made its provisions applicable to all sorts of relatively innocent offenses. Because of the excessive scope of the bill Gov. Fernald reluctantly vetoed it. Hundreds of temperance Republicans foiled in this effort to secure for persistent violators the jail treatment they had so long richly merited and encouraged by their experiences with honest law-enforcing Democratic sheriffs turned in and helped elect the Democrat Plaisted to the governorship.

In the pre-election contest the Democratic donkey, as his kinsman of the Midsummer Night's Dream, brayed a "great desire for a bottle of hay"—extra dry. The party platform specifically pledged enforcement of the laws. Party organs, among them the *Argus* and the *Sentinel,* insisted that the law was to be enforced.[9]

Congressman McGillicuddy speaking in the Court St. Baptist Church pledged his party to honest courses: "The Democrats propose to enforce the prohibition law as well as all others, to enforce it fairly and honestly in every county." At Fort Fairfield, Mr. Plaisted stated: "If elected governor of Maine I will give persistent attention to enforcement of prohibition." In grange and town hall he promised to see to it that offending sheriffs should be impeached. Equally definite was his inaugural: "Every promise made in the platform adopted by the Democratic party and upon which it waged its campaign must be kept squarely and fairly without evasion and equivocation. . . . We must be actuated solely by an honest desire to promote the welfare of

the state and set our stamp of disapproval upon all alliances between those who would violate any law and those charged with its execution. . . . There can be no question that it is the duty of every official to enforce the prohibitory law so long as it remains on the statute books."

Plaisted, it seems, was in the world of gilt and tinsel, Past Exalted Ruler of the Elks and Grand High Priest of a similar order. In the world of practical politics, however, he quickly showed himself the obsequious lackey of the alcoholarchs. These latter were to allow no enforcement nonsense. For a decade they had had the Democratic machine in training and now for the first time in a generation their opportunity had come. Strict enforcement would inevitably have meant another generation of waiting. The Sturgis Enforcement law was repealed with a rush. Three days later the state agencies were done away with.[f] Then came the chief *coup*, resubmission. The greatest crisis since the law's enactment was now in sight. Gov. Plaisted had fairly won the congratulations of the brewers on his "gallant attempts to redeem his native state from the sixty years' incubus of prohibition" (Yearbook of the U. S. Brewers' Association, 1911, p. 46).

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[f] These agencies which provided for the legitimate industrial and medical need for alcohol had been much abused and their suppression has proved a genuine betterment in the situation. But the motive of the anti-prohibitionists did not have this in view. They thought to throw into opposition to the prohibitory law those who bought liquor from these places. Herein they probably miscalculated.

In the campaign of 1884 which placed the Prohibition Amendment in the Constitution not only Republican but Democratic workers supported Prohibition. According to the Secretary of the Amendment campaign there were a full thousand Democrats on the 1884 Amendment committees. In the period that followed the Democratic party of Maine had been captured bag and baggage by the drink interests of the nation. The man above all to whom it owed its political rehabilitation, Cyrus W. Davis, stood in obvious relations to the brewers. The whole enginery of this party was now put in operation to overthrow the Amendment. It is estimated that 90% of the 2250 members of Democratic state, county, town, and ward committees in Maine were at work to this end while the Republican party, which in 1884 supported the amendment, in 1911 took no action.[g] Eight members of the Democratic State Committee, skilled and experienced politicians, were members of the Non-partisan Local Self-Government League, the campaign organization of the "wets." So completely was the Democratic machine turned over to the out-of-state drink trust that when such prominent Democrats as Captain Hobson and Gov. Glenn of North Carolina came to Maine to speak for Prohibition they were practically ordered out of the state by the leading Maine Democrat. "I am very

[g] "The Republican machine did not do anything. The Democratic party and press worked overtime to repeal. . . . On election day Democratic machine and politicians were at work at the ballot boxes with plenty of money delivering your floating vote" (Rep. Hersey, *Maine Leg. Record*, 1912, p. 71).

sorry," announced Senator Johnson, "that any Democrat outside the state feels it his duty to come into our state to oppose the wishes of the great majority of the Democratic party there."

The machinery was well oiled as always in such contests. "The Anti-prohibitionists," wrote the correspondent of the *Washington Star* "are backed with all the money they need." John A. McDermott, the organizer of the U. S. Brewers' Association, appeared in the July preceding the election at the Falmouth Hotel, Portland, with $150,000 which the brewers had set apart for carrying Maine and announced that more would be forthcoming if necessary (*Evening Express*, July 17, 1911).[h] Boston, as usual, was levied on to corrupt Maine voters. All the allied trades, cigar firms, bottle, cork and label manufacturers were ordered to turn their pockets inside out. We have on good authority that one of these collectors was seen with $40,000 on his subscription list and there were many collectors at work. We can well believe this for the liquor men of the country fully realized

[h] In a speech at Madison, Maine, in 1914, Gov. Haines said: "What I claim is that in the 'yes' and 'no' campaign and ever since they (the brewers) have been in this state behind the Democratic machine trying to upset the prohibition law and when the Democratic leaders have been short of funds they have furnished them. . . . This is the greatest fight the people of Maine were ever engaged in. It is not a question of Democratic or Republican supremacy in this state. It is a question whether Maine stands for prohibition or shall be turned over to the Whisky Trust and the Brewers' Association. . . . They (the Democratic leaders) have appealed to the liquor interests everywhere for support."

the importance of the crisis. *Bonfort's Wine and Spirit Circular* wrote (Feb. 25, 1911): "The overthrow of prohibition in Maine would have a tremendous moral effect throughout the country," and the *National Liquor Dealers Journal* (April 6, 1911): "There will, indeed, be a monumental struggle, for Maine constitutes the keystone of the arch on which prohibition in this country has been erected. If that stone should be cast down there will follow such a tumble that not one stone will be left upon another."

Every effort was made to control the press. The *Kennebec Journal* reported the receipt of liquor literature explaining that, prohibition repealed, valuable liquor advertising now monopolized by the Boston papers would be turned over to those of Maine. The owner of the leading Maine daily, the *Portland Evening Express,* was approached by beer representatives who, when categorical refusal was made to all proposals for opening the columns of the paper to them, attempted to browbeat him with threat of expulsion of his paper from the mails. This they explained was possible because of an alleged court decision against a newspaper proprietor who had refused reputable advertising. Other newspaper owners were, it would seem, not so scrupulous. Gov. Haines in a speech at Augusta (*Portland Daily Press,* Aug. 18, 1914) said: "It is the Brewers' Association, gentlemen, that you are fighting in the state of Maine. . . . They have bought the *Waterville Sentinel*—own it. Let them sue me for libel if they want to for making that statement. . . . Everybody knows that they ran the *Portland Argus* during the last campaign on the money received from the Brewers' Associa-

tion. Let them deny it and show the books if they can." The cartoons supplied jointly to the anti-prohibitionist papers came from a cartoonist sent into the state by the out-of-state alcohol capital. The beer-friendly Boston papers circulating in Maine were also from time to time set aweeping over the enormities of Maine prohibition.

Never had the state seen such an orgy of drunkenness as in the summer of 1911. The administration which had promised to make Maine "as dry as a covered bridge" let down all the bars. Voters were to be disgusted with unenforced prohibition.[i] Federal Tax receipts which in 1910 numbered 1,021 had jumped by 1912 to 1,390. The vultures evidently realized that there was no one to drive them from the carrion. Arrests in Maine cities both for drunkenness and for all causes touched in 1911 a record point (11,946 drunks, 15,605 for all causes; against an average in 16 years of 7,287 and 10,121 respectively). A correspondent in *Harper's Weekly* (Oct. 21, 1911) wrote that "the rum trust sent about 500 whisky soaks, harlots and confidence men into the state in 1911." It was obvious that men were being made drunk and pushed into the streets to

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[i] Plaisted's administration stood not merely for non-enforcement but for downright anti-enforcement. "Over in Somerset County," said Mr. Hersey in the Maine legislature, "Sheriff Mooers captured the biggest rum-seller and outlaw in the country and got him convicted. The court gave him a jail sentence and then governor and council pardoned him to show that it was treason for a Democratic sheriff to try to enforce the Maine law."

discredit the law. Boston floaters were placed in Portland and voted from vacant lots. I have it from the manager of the Amendment campaign that 64 voters registered from a place on Commercial St. where only 2 persons lived and 14 from a house on Free St. without residents. It is only necessary to say that the Portland city machine was the one defeated later by Mayor Chapman on the significant platform, "an honest ballot and fair count." The large vote for repeal was in the cities where purchasable voters are most numerous. In Waterville a man came to the Civic League office mistaking its sentiments and offered to deliver about 40 voters in one ward for a certain sum of money. It is worthy of note that in that city the sheriff's automobile was busy from early morning, hauling wet voters to the polls.[10]

When the vote was counted it was first decided that prohibition had been defeated by 29 votes. But delayed votes sent in from two country towns turned the balance and the Amendment was saved (by 758 votes).

The bird had escaped from the cat's claws. Davis, the Democratic party leader, hurried to Chicago where a Brewers' Congress was in session, presumably to advise as to the next step to be taken. "On coming to the platform he was given an ovation" (Brewers' Yearbook, 1911, p. 128). The party of repeal had hypocritically insisted that to take prohibition out of the Constitution would not mean adopting license but only putting the matter within the control of the people.[11] "Police regulations have no legitimate place

in a constitution."[j] This did not hinder it now from attempting to load upon the Constitution an amendment granting cities local option. Gov. Plaisted called a special session, the first since the Civil War, to give emancipation to the oppressed and groaning cities of Maine. We may be sure that the brewers were not unconsulted in the move.[k] The legislature, however, declined to play the part of marionettes to the wires which the malt lords in New York and Chicago were pulling and these latter had at last to abandon the game.

On the surface the vote of 1911 looks like a moral defeat and was so generally interpreted at the time

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[j] One could make a whole anthology of these hypocritical uterances of the anti-prohibitionists. The Waldo County Non-partisan Local Self-Government League issued an official pronouncement: "We believe in protecting our homes, in protecting our young men by eliminating boot-leg peddlers who sell the vilest stuff that can be made." The *Lewiston Sun* in complaining of the demonstrations of young people in favor of prohibition: "To set the children to constitution-making is as monstrous as to put into their hands the laying out of streets and sewers and water mains."

[k] In a speech at Machias, Aug. 21, 1912, Gov. Haines said: "One of the reasons why I am not in favor of the licensed saloon is that I don't want any multi-millionaire trust coming into our state and running our politics. We think the Standard Oil Co. and the U. S. Steel Corporation are large corporations, but the U. S. Brewers' Association represents $800,000,000 of invested capital. . . . If the U. S. Brewers' Association was not backing the Democratic party in Maine do you believe there would have been an extra session of the legislature called last winter?"

outside the state. When the above facts are taken into consideration one will not be so ready so to characterize it. The anti-prohibitionists polled their full strength. Possibly more than their full strength for it is freely intimated that the prohibition amendment was saved only by a mistake in the planned count-out.[1] Yet this vote (60,095) fell short by 13,209 votes of the vote for Plaisted in 1910 notwithstanding the best campaign that money and brains could put up. The drink party in the state and outside had in the year preceding 1911 been conscious of a gradually closing iron ring of hostile public opinion. They realized that it was a case of now or never, if they were to break through. On the other hand the dry party cast far from their full voting strength. Experienced observers sent about the state before the balloting prophesied the loss of the amendment. The farmers of Oxford and Franklin counties were working by lantern light, nights, cutting corn for the canning factories, the chief industry of that part of the state. Those of the Aroostook were harvesting the huge potato crop. Neither could be made to feel that the Amendment was in danger.

Demographic changes in the state put the temperance party in a more unfavorable position in 1911 than in 1884. There had been an actual decline in rural population (1890, 362,482; 1910, 360,928). On the other hand the growth of population in the five

[1] The poison crowd on the contrary were so sure of overthrowing prohibition that their agents in Maine refrained from spending all the money sent into the state. Further, options on locations for saloons were taken on Congress, Middle, and other important Portland streets.

largest cities had been 42,090. This increase was predominantly French Canadian, as yet unaffected by the movement against alcohol. The *Biddeford Record* could say of the liquor men in 1911: "They have done the kind of work and perfected the kind of organization that brings results in politics." That of the defense was improvised and inadequate. Even the temperance organizations were weaker in 1911 than in 1884—the Good Templars having had 20,000 Maine members in the earlier year and only 2,000 in the latter. But according to a leading Portland lawyer who spoke for the drys the greatest difficulty lay in the fact that the younger generation of voters could not be made to realize what a saloon was and really meant.

The election of 1912 constituted a ratification of the decision of 1911. The line was sharply drawn. Maine voters knew now what was to be expected of Plaisted. Mr. W. T. Haines, the Republican candidate, was also sufficiently explicit. He traveled down to Bangor and told the people of that city: "If you don't want the prohibitory law enforced you do not want to vote for me." Some months after his election the legislature was called upon to institute proceedings against the offending sheriffs. Five were removed and their places filled by honest and efficient men. The effects were immediate. The *National Herald,* a Philadelphia liquor paper, wrote: "Beyond question Maine is getting genuine enforcement of the prohibition law from one end to the other. Portland, Lewiston, Bath, Rockland, Augusta, Waterville, and even Bangor are all drier than they have been before in a generation. Many did not

believe that such a thing could be done. But the worst scoffers are silenced." "The jails and prisons," said Gov. Haines in an address at Columbus, Ohio, "under the present administration with fairly good enforcement have only one-half the inmates as a result of intoxication as compared with the number during the previous two years of non-enforcement. . . . There is not a day passes that I do not receive some evidence of (the business men of Bangor's) satisfaction and approval of the enforcement of the Maine law in that county. It's dollars and cents to every one of them."[m]

The Progressive Party in 1912 had run no opposition candidate to Gov. Haines. But in 1914 they did so, splitting the law-enforcement vote and electing the nullifier, Curtis. The fact that various state offices were later parcelled out to leading Progressives by the Democratic party and especially that the Progressive party in 1916 lifted up its voice in chorus with the Democrats for the application of the referendum to the State constitution (an indirect way of reopening the question of repeal of prohibition) suggests collusion to keep the law enforcement party

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[m] Gov. Haines, speaking in Portland, Sept. 8, 1914, offered the following statistics. The record of 1913 had practically only 8 months under the new sheriffs and was burdened with the first four months of the old regime. Yet commitments to jail in the four lax counties were:

	1912.	1913.
Androscoggin	1057	468
Cumberland	1076	850
Kennebec	618	253
Penobscot	806	350

out of power. The consequence was another two years of rough-neck politics and bad enforcement. Yet one could not even now compare this ill-enforced Portland prohibition with an ordinary free sale situation. Hogs with snouts between fence rails biting off corn stalks here and there are not hogs roaming and rooting at will. The writer recalls meeting an anti-prohibitionist in the Gudbrandsdal, a sea engineer who could not speak sourly enough of the dry movement in Norway, who yet confessed that Portland was the only place in the world where he saw his firemen go ashore without anxiety. So in the so-called "wide-open" days of 1916 when the Super-dreadnaught *New York* was in Portland Harbor special naval police were sent with the men on their shore leave. In an interview the engineer in charge said: "Yes, we do this in every port but in many we have more men patrolling. It's on account of this being a dry town that we have so few—only four men. In wet towns we have eight or ten" (Portland *Sunday Telegram,* June 11, 1916).

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The present study had reached this point when Mr. Milliken was elected governor in September, 1916. It was then laid aside to await developments in the State. Governor Milliken's plurality was a substantial 13,598 in the largest vote ever cast in Maine—again a clear indication that public sentiment was really behind the law. The electorate was quite aware of what was coming. Mr. Milliken had formally promised to use "every resource at our command to ensure an honest state-wide enforcement."

In logic it is a dangerous leap from the peak, "It isn't done" to that of "It can't be done." Most of Maine's critics now lie at the bottom of the chasm between. The demonstration of the enforceability of prohibition in large centers of population has, since 1916, been made in scores of places some of which would have seemed *a priori* little submissive to such legislation—Denver, Seattle, Detroit, Indianapolis, the mining towns of Arizona, Montana, etc. It has also been made in Bangor and Portland and Lewiston and all the indications are that the question will never be reopened.

The first thing to be done was to give to the executive the machinery for absolute enforcement. This was obtained from the legislature of 1917. Penalties were stiffened, jail sentences made mandatory and the governor given power to remove county attorneys and sheriffs. Automobiles, steam launches, etc., carrying intoxicants illegally were ordered subject to confiscation. The registration of all liquors imported into the state was made obligatory and penalties were set for delivering elsewhere than at points of consignment or to persons specified. The 1917 "bone-dry" Amendment to the Federal Postal Law, it may be explained in passing, has reduced these importations into Maine to a minimum. Section 45 was so amended as to place the responsibility of enforcement squarely upon municipal officials with penalties for neglect up to $1000 and a year's imprisonment.

Enforcement followed with the smooth inevitableness of natural law. Sheriff Graham of Portland has summarized the results for me in a single statistic.

Average monthly commitments for intoxication to Cumberland County (i.e., Portland) jail during eight years prior to 1918, 86.5.

During the first seven months of 1918, 2.3.

In 1917 there were actually more commitments to this jail for illegal selling (107) than for drunkenness (100).

The Probation Officer of Cumberland County had in 1916 1072 persons convicted for intoxication placed in his charge; in 1917, 328; in the first six months of 1918, 94. We will not enlarge. The uniformity of statistical testimony coming in from American dry cities is almost tedious.

The whole course of recent events has conspired to give permanency to the *régime* of rigid enforcement. Maine is no longer an exposed sentry-post. In the state itself the wets have struck their flag. No reference to prohibition is made in the Democratic platform of 1918 and the candidate for governor is a prohibitionist. The pipe line of the brewers no longer runs its golden stream into Maine. These corruptionists are too busy holding their Hindenburg line—Cincinnati, Milwaukee, St. Louis—to trouble further Maine Americans.

In short the long siege of the state has been lifted.

The full significance of Maine's victory can be judged only by those who know something of the strength of the organization which has waged war on her law. There is little doubt that the brewers have constituted during the last decade the most powerful group in American public life. They have been able to control the press, their agents writing even the editorials on subjects relating to alcohol for very many of

the newspapers of the country; to exact *written* pledges from candidates to political offices, both state and federal; to manipulate labor leaders and labor organizations at will; to spend money politically on a scale without parallel in American history; to harness to their activities men and organizations apparently most remote from them; to humble by boycott some of the most powerful corporations of the country which happen to have crossed their intriguings. To discredit the Maine law by nullification and ultimate repeal has been one of their most cherished projects. But they have been obliged to relinquish it.

One last Parthian arrow from the bow of the master brewers' master romancer I have just picked up in the purlieus of the state capitol at Augusta. Strict enforcement, so went the story into the nation's press, had caused a marked decrease in the Maine savings-bank deposits of 1917. I asked the State Bank Commissioner the reason for the actually slight drop. Subscription to Liberty Bonds and the fact that three considerable savings banks had changed over to trust companies, transferring their statistics of deposit to this other column, was the sufficient explanation. All types of savings institutions together showed an increase of over eighteen millions—a record increase with one year's exception.

Is this to be the brewers' last canard about Maine—their final lie?

REFERENCES.

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2. *Maine Legislative Record,* 1905, pp. 298, 300.
3. *Maine Legislative Record,* 1905, p. 639.
4. *Maine Legislative Record,* 1905, p. 295.
5. *Civic League Record,* June, 1901.
6. *Civic League Record,* Jan. and June, 1902.
7. *Maine Legislative Record,* 1912, p. 430.
8. *Maine Legislative Record,* 1905, p. 495.
9. *Maine Legislative Record,* 1912, p. 248.
10. *Civic League Record,* Nov., 1911.
11. *Maine Legislative Record,* 1912, p. 71.

APPENDIX I

THE FAILURE OF HIGH LICENSE—LOCAL OPTION IN NEW HAMPSHIRE AND VERMONT

IN any consideration of the later vicissitudes of the Maine law, non-enforcement in the cities, which the alcohol capital in collusion with certain Maine politicians has from time to time effected, can easily appear more important than it really is in the situation as a whole. However outraged one may feel at open disregard of a statute in a part of the state the fact remains that in spite of sporadic nullification general conditions under an imperfectly enforced state prohibition law have proved better than under the best administered type of a license-local option law. Local option often constitutes a useful approach to state prohibition. But it has also shown itself a fatal declension from state prohibition. This the experience of Vermont and New Hampshire has, in the last decade, demonstrated beyond question.

Prohibition in these two states was a survival of the *antebellum* agitation. It continued fairly effective until the nineties. Then, the original agitation having long since died down, leaving no awakened inner force to resist attack from outside, enforcement became distinctly laxer. In New Hampshire conditions were especially loose. The earlier law excepted the

sale of beer[a] and not until 1878 was this prohibited. Even then the manufacture of beer was permitted and a brewer, Frank Jones of Portsmouth, exerted a powerful influence upon the political life of the state. A system of periodic fining was introduced in Manchester and elsewhere (the so-called Healy System) which enabled illegal sellers to handle the output of Portsmouth breweries without serious interruption. This went so far that at the turn of the century a distinct reaction toward better enforcement made itself felt in both states.[b] The opposition re-

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[a] A survival apparently of traditions concerning the wholesomeness of beer. The New Hampshire legislature of 1792 passed an act to encourage the manufacture of malt liquors. "Whereas the manufacture of malt liquor in this state will tend to promote agriculture, diminish the use of ardent spirits and preserve the morals and health of the people. . . . Therefore be it enacted by the Senate and House of Representatives in General Court convened that . . . all buildings, yards, stocks, etc., used for this manufacturing purpose shall be exempted from all taxes of every kind and nature and the owner or owners of such works and buildings shall be exempted from all poll taxes and abatements from poll taxes of apprentices hired."

W. H. Sawyer, "The (N. H.) Law Regulating the Traffic of Intoxicating Liquors," 1897.

[b] In Vermont the number of Federal (liquor dealers') tax receipts which in 1899 was 33 had for the year ending July 1st, 1902 fallen to 11. The judges of the Vermont Supreme Court were issuing injunctions freely against illegal sellers. In New Hampshire Judge Peaslee issued a mandamus against Healy, Chief of Police of Manchester, "immediately and without delay to prosecute said dealers of spirituous liquors." The Healy System after an existence of eight years came to an

sponded by an attack on the law. This in Vermont followed the tactical line which had proved successful in Iowa. Mr. Clement, an anti-prohibition Republican, bought the *Rutland Herald* and to the clamor of that journalistic tam-tam marched out of the Republican Convention. He was joined by a very large proportion of the Democratic voters, delighted at the prospect of driving a splitting wedge into the dominant party. In the campaign which followed Clement, accompanied by a negro minstrel troupe, went about the state describing Vermont as besotted and filled with perjuring hypocrites. That the out-of-state liquor men were active in the back-ground we may be sure. The *Burlington Free Press* (Aug. 19, '02) speaks of the trips made by "a notorious man for the purpose of interesting the liquor associations in the campaign" and after the tumult and the shouting had died down *Bonfort's Wine and Spirit Circular* confessed that "the Protective Bureau of the National Wholesale Liquor Dealers' Association had much, very much to do with the work which did away with prohibition in Vermont." The bolt proved serious enough to prevent a decision at the polls and the election was thrown into the legislature. The *Free Press* wrote on Sept. 3rd: "The great majority which the Republican party held in Vermont has been practically wiped out." Party politicians were panic-

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abrupt close and the Manchester illegal bars were, for the time being shut up. Criminal drunks in the N. H. House of Correction which numbered 663 in 1901 fell to 473 in 1902 under better enforcement only to rise to 838 in 1903 (license from May, 1903) and to continue soaring to 2181 in 1906.

stricken. Vermont a close state! An impossible price to pay for the retention of a blue law! Disregarding hastily gathered petitions from 60 towns with 14,000 signatures the legislature hurried through a license referendum bill. It was ratified on Feb. 3, 1903 by a majority of 729 in a total of 58,693 votes.

The fall of the Vermont law carried down with it that of New Hampshire. The secrets of American politics, as of those of European diplomacy, are rarely altogether revealed in the generation of occurrence. But it is perhaps not impossible to draw conclusions in the present instance. The renaissance of law enforcement in New Hampshire in 1901-2 had alarmed the liquor interests. The Democratic party was pledged to repeal and needed no *quid* for its *quo*. Brewer Jones who, as President of the Boston and Maine R.R., had the state politically as nearly in his pocket as it was possible for an opposition leader, passed to the Republicans. These were the zenith days of Mark Hanna. Jones was received with open arms, sent as a delegate to the Republican National Convention and even mentioned for a Cabinet position. This secession gave to the national Republican leaders a vision of rockribbed control in New Hampshire quite a contrast with the endangered party situation in Vermont. Why again allow the old blue law to dissipate it? Events followed as by schedule. The Republican Gov. Bachelder intimated that he would sign any license bill that the legislature should put up to him. In such crises no patriot would hesitate to place his veto power in pawn. A license law was hurried through the legislature. The Speaker of the House, slated it was affirmed for a state

license commissionership under the coming *régime*, was openly accused of choking off discussion in the all-night session which was deemed imperative for ridding the state as rapidly as possible of its incubus.

The Vermont prohibitory law was provided with very inadequate penalties. In the new law illegal sale was made punishable with imprisonment from 3 to 12 months or a fine of from $300 to $1000, or both. Most of the patented devices of restrictive legislation were incorporated in it. The screen law was taken over from Massachusetts. The inebriate pledge of "the Pollard System" and the blacklist which is the essence of the new "Stockholm System" form a part of the Vermont license law.[c] Licenses are limited to one to a thousand of the population and licensees are barred from holding any public office in the state. All income from licenses goes to the state; the cities and towns are not tempted by high license fees to vote "wet." In New Hampshire the prohibitory law was retained but a license law applicable to any town or city voting "wet" was added to it. This was prob-

[c] Husband, wife, child, brother, sister, guardian or employer may notify a board of license commissioners to forbid sale. Boards are ordered to notify all of their boards in the county and these in turn are to notify the drinksellers. By 1905 there were 820 names in Burlington alone on this blacklist. Burlington's population was then about 19,000.

At one of the legislative hearings one sensible woman proposed that the clause forbidding sale to drunkards should be modified by an amendment allowing sale only to drunkards. One person at least in Vermont had caught the modern idea of race hygiene.

ably as nearly a Model License Law as could be devised. Licensing control was vested in State Commissioners who have proved themselves judicial and incorruptible. These Commissioners stood out of reach of local influence; they had the right to refuse a license to any applicant deemed unfit or in any locality unfavorable to the public welfare. The penalty for any violation even for the first offense was forfeiture of both license and bond. License fees were graduated up to $1500. License holders were prohibited from shipping liquor into no-license towns either for sale or for personal or even medicinal use. The attorney general was by statute made personally responsible for the prosecution of violators of law. He had power to send a solicitor from one county into another to enforce the prohibitory law, thus keeping the county solicitors and local officials on the alert. The State License Commissioners themselves had three agents who circulated continually about the state after evidence against law-breakers. Second offenses were punished by imprisonment. The old practice of failing to allege second offenses ceased.

The court, if informed that a second offense was passing as a first, was ordered by legislation of 1903 to quash the indictment and cause a complaint or information to be made for a second offense. As a consequence of the stiffening of legislation in both Vermont and New Hampshire those parts of the states which were under no-license had a much better enforcement than was possible under the weaker clauses of the old prohibitory law.

Yet the new *régime* measured by the usual tests proved far more unsatisfactory than its predecessor. In both states with the passage of the license law there was a rush to experiment with the novelty. An immediate increase in drunkenness, crime, and expenses for police and poor relief followed. With the reaction to no-license which soon made itself felt these curves receded somewhat, yet continued on a distinctly higher level than in the prohibitory period. From the considerable statistical material on hand we select the following as characteristic:

Commitments to the Vermont House of Correction
(From the Biennial Reports)

Year.	Total Arrests.	Arrests for Drunkenness.
1892	717	291
1894	904	346
1896	1041	148
1898	982	141
1900	1011	116
1902	1186	192
1904	1696	691
1906	2051	955
1908	1397	636
1910	1472	526
1912	1289	575
1914	1259	404

Average commitments for drunkenness in the last 12 prohibition years, 123.4.
In the first twelve local option years 378.7.

Commitments for intoxication to jail in all the counties of Vermont were for the last four years of prohibition 2175; for the first four years of local

option 5554. Every county save one showed an increase.[d]

That under the local option law criminality apart from drunkenness increased, seems deducible from the statistics of commitments to the Vermont State Prison. None of these commitments were for drunkenness but for graver crimes alone.

Year.	Commitments.*	Year.	Commitments.†
1892.....	88	1904.....	154
1894.....	125	1906.....	281
1896.....	159	1908.....	178
1898.....	152	1910.....	155
1900.....	139	1912.....	180
1902.....	149	1914.....	225

*Average for each of the last 12 years of prohibition 67.6 commitments.
†Average for each of the twelve first years of local option, 97.7 commitments.

The following summary which the writer worked out of the records of Burlington, the largest city of Vermont, contrasts the last 13 years of prohibition with the first thirteen years of local option:

Arrests for drunkenness in the last year of prohibition (1902)	88
Arrests for drunkenness in the last year of local option (1915)	380

[d] Four years after the repeal of prohibition the authorities in Burlington were negotiating with the Paula Jail Building Company of St. Louis for the construction of a new jail. Five of the fourteen counties of Vermont have asked for construction or enlargement of jails since the advent of local option.

Arrests for all causes in the last year of prohibition (1902)	269
Arrests for all causes in the last year of local option (1915)	611
Police expenses in the last year of prohibition (1902)	$11,078.86
Police expenses in the last year of local option (1915)	24,380.38
Expenses for poor relief in the last year of prohibition (1902)	11,402.60
Expenses for poor relief in the last year of local option (1915)	16,582.00
Average yearly arrests for drunkenness in the last 13 years of prohibition	143.3
Average yearly arrests for drunkenness in the last 13 years of local option	343.5
Average yearly arrests for all causes in the last 13 years of prohibition	381.7
Average yearly arrests for all causes in the last 13 years of local option	552.8
Average per year for police expenses in the last 13 years of prohibition	$7,784.21
Average per year for police expenses in the last 13 years of local option	19,674.86
Average per year for poor relief expenses in last 13 years of prohibition	7,433.84
Average per year for poor relief expenses in first 13 years of local option	14,928.64

Turning to New Hampshire one discovers similarly discouraging material. From the county reports we have read the following table which presents, by counties, the number of inmates of jails and houses of correction in the last year of prohibition (1902),

the last statistical year (1915), and a year between taken at random (1909):

	1902.	1909.	1915.
Sullivan	34	72	95
Strafford	168	488	408
Hillsborough	320	832	898
Grafton	103	170	124
Rockingham	331	461	402
Merrimack	231	346	814
Belknap	77	42	87
Carroll	111	33	22
Coos	145	105	260
Cheshire	101	70	163
Totals	1521	2619	3273

The following table made from the Biennial Reports of the New Hampshire State Board of Charities and Correction gives the number of prisoners committed to the Houses of Correction at the New Hampshire County Farms. This number with the abandonment of state prohibition passed permanently from the three- to the four-figure column. The table is undoubtedly more favorable than the actual situation. In Nov., 1903, after six months of license the superintendent of the Rockingham Farm at Brentwood notified one of the police judges that he could not take more prisoners. "They were so crowded since the license law came into effect that in some cages they had to put prisoners 'four in a bed.'" At the Boscawen County Farm there were, before license, 25 criminal inmates on an average. "The number has reached 60 and for lack of accommodation in the criminal building some of the prisoners have been

put into the insane ward." The amount of unarrested drunkenness has been very much greater under local option than under the old prohibition law. There is a general understanding among the police that arrests must be kept at as low a figure as possible in order not to discredit the license law. Large numbers of drunks cannot pay fines and costs. To avoid the expense charges at the County House of Correction these have been helped home.[e]

Commitments to House of Correction at New Hampshire County Farms

Year.	Total Commitments.	For Drunkenness.
1900-01	872	663
1901-02	592	473
1902-03	950	838
1903-04	2207	1337
1904-05	2169	1637
1905-06	2470	2181
1906-07	2139	1971
1907-08	2213	2052
1908-09	1928	1741
1909-10	1591	1396
1910-11	1476	1303
1911-12	1684	1526
1912-13	1791	1606
1913-14	2132	1866

Manchester is the largest city of the state. The total expenditure for poor relief in this city according to the reports of the Overseers of the Poor

[e] A report of the State Board of Charities and Correction deplores and condemns the practice of sending to the county farms, intended as places of care and comfort for the poor, hundreds of drunken criminals.

amounted in 1903 to $11,339.45. In 1914 the expenditure (chiefly for out-door poor relief) was $20,735. The average of the 11 prohibition years preceding 1903 was $7,658.49; of the 11 local option years following repeal, $16,982.10. This increase was all out of proportion to the city's growth in population. It must also be remembered that the prohibition prevailing in Manchester previous to 1903 was the Healy System of tolerated sale, not *bona fide* prohibition. One sees, therefore, how impotent for social good regulation is.[f]

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[f] Mr. Oliver E. Branch who it is alleged wrote the leading editorials in the *Manchester Union* in 1902 and 1903 favoring a license law stated at a public hearing in the N. H. Hall of Representatives, Feb. 13, 1907, that the law had failed of its purpose and that if he could vote on the question again he would emphatically vote against the whole system. He insisted that while the law was enacted for the purpose of restricting and lessening the sale of liquor there had been an enormous increase of the sale in every direction. *N. H. Issue,* June, 1907.

It is well to visualize concretely a fragment of the unnecessary misery which such statistics represent. In the second year after the overthrow of prohibition in New Hampshire the Superintendent of the Anti-Saloon League received the following letter:

"Dear Sir: I am very sorry I have not been able to pay the little subscribed for the League but the money I ought to have sent goes to help the other side. I am all discouraged. My husband is one of the best skilled workmen in the city but I see very little of the money. . . . He has been a great deal worse since the law (i.e., the local option law). . . . I know fellows who never went into a saloon until this law."

Rich as well as poor have their pockets picked by the

The 1912 Report of the New Hampshire State Hospital for the Insane puts alcoholism in the first place as predisposing cause to insanity among men. Next to the 35.5% due to this cause comes heredity with 19.6% and old age with 6.4%. After the abandonment of state prohibition in New Hampshire there was a marked increase of insanity in the state. We borrow from the 15th Report of the Board of Commissioners of Lunacy (p. 195) the statistics of the 11 years preceding repeal and the 11 years following.

Year.	Inmates.*	Year.	Inmates.†
1892.....	670	1904.....	826
1893.....	629	1905.....	856
1894.....	684	1906.....	875
1895.....	712	1907.....	899
1896.....	725	1908.....	954
1897.....	730	1909.....	1001
1898.....	733	1910.....	1033
1899.....	764	1911.....	1052
1900.....	760	1912.....	1063
1901.....	768	1913.....	1119
1902.....	736	1914.....	1178

*Average number of inmates in the state and all county asylums for last 11 years of prohibition, 719.

†Average number of inmates in each of the first 11 years of license, 986.9. (This is an increase of 37.2% over the prohibition period.)

Under state prohibition the little towns and villages are peaceful and undisturbed. The alcohol capital

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brewers. Mr. George Van Dyke made a public statement before a committee of the New Hampshire legislature in 1907 that the sale of liquor to his lumber men during the first three years of the license law had cost him $20,000. *N. H. Issue*, May, 1909.

confines to the cities its efforts to break down law. Under local option, on the other hand, having obtained a foothold in the large centers it extends its attack to the smaller places. These last must now be *toujours en vedette.* A little money sent secretly into the village the week before election;[g] unfavorable weather on election day; the neglect of a handful of voters to vote as usual, plants a drinkshop in the community. The gravel-hearted doctrinaires of local option explain that the constant agitation of the temperance question is good for the people. Those who have to carry it on would prefer rest to running in this perpetual squirrel cage; or would, at least, choose to expend their energies on other social enterprises. They tire of the eternal sentry duty against the brewer.[h] And yet they must continue. A saloon

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[g] "A law (was) passed not long since for the express purpose of preventing the shiftless disreputable bums in the largest towns from voting upon the liquor question unless their taxes were paid. The main purpose of this law has been defeated and its spirit violated by liquor dealers paying these delinquent taxes openly. In St. Albans, Burlington, Rutland, Bennington, Montpelier, and Barre, a large number of these bums through the eleventh-hour payment of their taxes by liquor dealers vote yes every recurring March and throw more that one of these cities into the license column." *Vermont Issue,* Jan., 1911.

[h] To escape these uncertainties of local option voting influential citizens of Exeter, N. H. (Attorney General Eastman, Judge Young of the Supreme Court, and Prof. Tufts of Phillips Academy among them), sought to get a bill through the legislature making Exeter permanently dry by state act. Other educational centers (Hanover, and Durham, the seats respectively of Dartmouth College

in a little town where there is no organized police is an exceptionally dangerous institution. It draws in drinkers from a large area and creates "a paradise of hoboes." Of this the country people of both Vermont and New Hampshire have had ample and bitter experience. The village of Groton, Vt., for example, by an electoral fluke went wet for the first time in 1913. When the fact became known the respectable townspeople offered to raise the license fee and take out the license but refrain from operating it. A petition to the license commissioners to refuse a license was signed by 100 voters (35 more than the entire wet electorate) and by nearly all the women in the village. In vain! The village became the center for the alcohol traffic of the whole countryside and general conditions resulting provoked the suggestion that its name ought to be changed from Groton to Rotten.

The voters of Vermont in 1903, having had no experience of the saloon, went headlong for license. The aggregate vote of the state gave a wet majority of 5315. But in the following year the majority was 6927 dry and has since grown steadily larger. In 1903 92 of the 246 towns voted wet; in 1915 the number had fallen to 22, 17 of which only took out licenses. New Hampshire villages likewise dropped the saloon as a child a hot coal, after a brief experience.[1] It is almost tragic-comic to follow the

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and the State Agricultural College) were invited to participate in the plan. But the legislature would not accede to the petition.

[1] The number of license towns in Vermont in 1903 was 92; 1904, 40; 1905, 34; 1906, 30; 1907, 31; 1908, 27;

parabola of these license experiments. We will illustrate with one or two New Hampshire villages.

The town of Warren with 701 people lies under the shadow of Mt. Moosilauke. In 1906-7 its expenditure for police was a modest $22.25 and its share in the state's license income just 75 cents. In 1907 it went "wet" by 6 votes (105 to 99). In the town report for this year there appeared a brand new entry "Account of Police Service." Warren had now entered upon its metropolitan phase. Its expenditures for this end jumped thirtyfold—from $22.25 to $650. True, its income from license fees was $921.68 which left a "balance" of $271.68 as the report pointed out. But this income meant a tremendously serious outgo for numbers of Warren's families. After four years of experiment Warren closed its bar and the police department as such disappeared from the town report. There were 3 small entries only for police expenses in a miscellaneous item page. In 1911-12 police expenses were just $4

1909, 27; 1910, 28; 1911, 29; 1912, 21; 1913, 24; 1914, 20; 1915, 20; 1916, 22. The record dry majority was 1916, 10,932. In various elections of late every Vermont county has given a dry majority. This is decidedly different from Mr. Clement's forecast. In the evening after the Prohibition law was repealed he remarked: "I believe the feeling in favor of the system (license) will increase as licensed bar-rooms are installed in the different cities and towns and the people see the effect of the law." Burlington *Free Press,* Feb. 4, '03.

In New Hampshire the license majority in the first year of local option was 7700 for the whole state; in 1910 the aggregate no-license majority of the state was 7663.

and the entry of Judas money from the state's license fund had ceased altogether to appear.

Under prohibition Ashland (pop. 1412) was a practically crimeless New Hampshire town. In 1907 it opened a saloon. Mark the transformation:

1906-07 (dry). Arrests of all sorts, 13. Police Costs, $309.32. Poor Relief, $126.60.
1907-08 (wet). Arrests for drunkenness alone, 131. Police Expenses, $2049.64. Poor Relief, $308.91.
1908-09 (also a wet year). The town report subtracts the police expenses from license and court fees and writes underneath (with naive rustic head scratching) "Gain, $908.38." Profounder calculations in alcohol finance brought the townspeople to vote dry in 1909. The change was instantaneous.
1909-10. Arrests for the year, 18. Police accounts, $303.40.
1910-11. Arrests, 10. Police account, $226.75.
1911-12. 14 arrests.
1912-13. 8 arrests.
1913-14. No arrests.
1914-15. No arrests. The appropriation for police seems to have gone chiefly to feeding tramps.

If it were only a matter of dollars and cents one could smile at the mental density of communities which have to learn their lesson in this way. But the injury done runs far deeper. In 1913 Bolton, a little Vermont village of less than 500 inhabitants which in prohibition days would have no more thought of having a saloon than a Chamber of the Inquisition, went wet—46 to 35. During the year of license there were four tragic deaths in the village directly due to drink. A young man was murdered and the two

assailants are now supported by Vermont taxpayers in the State prison; an old man, living alone, got drunk and was burned alive in the fire which destroyed his home. A third person died of alcoholism and a fourth fell under a moving train when intoxicated. One need not enlarge on the broken bottles by country roadsides, the staggering persons on railway trains, the "drunk electrics," the crowded county jails, the furiously driven teams, the discomfort and danger to women and all the other alcohol barbarisms.[j]

From all this the country towns were sheltered by state prohibition and to it they are exposed by local option. The license majorities in these little places are almost always very small compared with the number not voting and therefore do not fairly represent public opinion. Thus in the first New Hampshire local option election (1903) Tilton went wet by 6 votes, but 178, more than a third of the electorate failed to vote. Wolfboro went wet by 2 votes, 376, more than half of the electorate not voting; Stewartstown went wet by 12 votes, 203 of the 321 voters not voting; North Hampton went wet by 7 votes,

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[j] During the license years in Hillsdale a dam across the Connecticut was under construction. One cold night in the early part of the winter one of the workmen drunk on Hillsdale rum was crossing the river at the place of the works and for comfort crawled into the engine house above the engine, went to sleep and *was roasted to death.* The superintendent of these works says that the saloons in Hillsdale have cost the construction company thousands of dollars. *N. H. Issue,* July, 1907.

138 out of 251 not voting, and so on. The driving force which carries these places for license is more than often the alcohol capital outside of the state or in the large cities. In 1909 Northfield and Braintree were the only Vermont towns ready to grant licenses between Burlington and the Massachusetts' line. The profit in sight was so obvious that 23 persons applied for licenses! It is a well-known fact that in American cities the bulk of the saloons are owned or mortgaged by the breweries. In Vermont at the present time it is alleged that very many licenses are controlled by the same interests outside of the state. This has come to the surface by the movement of funds in Burlington banks and otherwise. Thus in 1915, application for a license was made in the little village of Felchville. The surrounding towns hastened to petition against granting. In the hearing which followed the prospective saloon keeper acknowledged that he had no capital but that breweries outside of Vermont were to provide money for his rent and license fees.

The oscillations from wet to dry and back again in a large number of towns keep alive a constituency of drinkers in places which under a state law would be contentedly abstinent. A town which has had a saloon even for a single year suffers from the bad effects for years. The ex-license holder often hangs on with a pool table or low per cent beer in the hope of securing a license for the following year and his former patronage of disaffected ex-drinkers foregathers and loafs in the old place. After a time a point is reached where (without women's enfranchisement) further progress in suppressing saloons is

practically impossible by the local option method. This high-water point in New Hampshire was touched in 1908.[k] Centers of contamination are consequently permanently established in various parts of the state, sufficiently numerous and conveniently placed to corrupt the no-license area. "There are always," said John M. Atherton, the farseeing President of the National Wholesale Liquor Dealers' Association, when commending local option as a weapon for fighting prohibition, "enough license counties mixed in with the no-license counties to practically supply the latter with all the liquor they need."

While scores of little places in New Hampshire and Vermont were thus brought into a condition of intermittent fever by the substitution of local option for state prohibition, the cities soon felt the liquor interests strengthening their hold upon them. Liquor dealers, who under prohibition were endangered pariahs, organized legally and their organizations were linked up with those of the national alcohol interests. Statesmen from the tap room were found in the legislature. W. F. Harrington, the largest wholesaler in New Hampshire was even nominated as delegate to the Republican National Convention in 1908. The *New Hampshire Issue* speaking of the growth in power of the liquor political machine in the state wrote (May, 1913): "By various influences it has been able to secure a dangerously large follow-

[k] In 1903, 322,182 persons lived in the New Hampshire areas voted wet by the electorate. In 1908 the number had fallen to 159,486. Since then there has been a rise again. The number living in wet territory was in 1915, 210,889.

ing in the House, to absolutely dictate a majority in the Senate, and to manipulate the administration's political machine to pass liquor bills through the legislature."

There has been a constant struggle since the adoption of local option on the part of the liquor machine to break down the law's restrictions; on the part of the friends of the law to defend and extend them. Anywhere up to 40 bills to amend the state liquor code have been introduced each session into the legislatures of New Hampshire and Vermont. While states like Kansas and North Dakota, where a recognized solution of the drink problem has been reached, have to put up with little legislative discussion of this subject local-option-license states are afflicted with perennial wrangling over their liquor laws.

More than half the New Hampshire saloons are owned or controlled by the Frank Jones Brewing Co., the Portsmouth Brewing Co., and the Harringtons, wholesalers of Manchester. This centralization is represented by a legislative lobby which is in close touch with other interests apparently distinct from it. The Boston and Maine Railway and the liquor interests were for a considerable period represented by one and the same attorney, John Kelly of Portsmouth. The 1915 Report of the Public Service Commission throws much light on this collaboration. The Grand Trunk Railroad had been seeking for some years to secure charter rights in New Hampshire and in this had naturally been opposed by the Boston and Maine which monopolizes the carrying trade of the state. The attorney of the Grand Trunk in Concord,

Mr. Robert Jackson, was approached by the Secretary of the Liquor Dealers' Association with proposals for an alliance between the railway and the drink interests. Mr. Jackson's account of the incident is as follows:

"He came to see me in Concord and . . . the way he began the conversation was by saying the Grand Trunk was going to win out and that his people—meaning, I suppose, the Liquor Dealers' Association —were interested in questions which were to come before the legislature and that he thought there might be an opportunity for the Grand Trunk and the Liquor Dealers' Association to co-operate. I told him there was 'nothing doing.'"

Question. What further did he say, if anything?

Answer. I cannot be absolutely certain of this but my recollection is he said if we didn't want to co-operate with him there were those who did.

Question. Did he specify who?

Answer. I understood him to mean the Boston and Maine.

Unsuccessful with the Grand Trunk the political *condottieri* turned to the Boston and Maine. Here they were more fortunate. Mr. G. A. Weston, attorney or agent of this railroad, stated under oath that he employed the representative of the Liquor Dealers' Association to do political work over the state. For this he paid him between six and seven thousand dollars. The bulk of this money was turned over just previous to the November election. Of this incident the Public Service Commission Report says:

"The evidence regarding the employment of Steele;

his own application to Billings; the communication of that fact by Billings to Kimball; the employment of Steele a few days later through Weston; the injunction of secrecy regarding his employment; the understanding that he was to keep no accounts; the absurdly large sums paid him considered as compensation for any legitimate services which he could have rendered; the time of that payment, immediately before the November election; and his proposal of legislative co-operation with the Grand Trunk attorneys—all this taken together compels the conclusion that the employment of Steele was designed to effect an alliance between the Boston and Maine as represented by Mr. Kimball and the liquor-selling interests, for co-operation in the legislature. And there is evidence that such an alliance was not only contemplated but that it was actually consummated and was made use of when a crisis arose in legislative affairs."

The liquor interests have raised large sums within and without the State to extend the area of liquor selling. Merchants in all lines who deal with brewing or liquor firms have been held up for contributions. It is with such blackmail funds that the "drys" have had to contend in the annual elections as much as, or more than, with honest opposing opinion in their home towns. Extracts from one of many letters will illustrate this alcohol effrontery. In 1914 the Secretary of the N. H. State Association of Licensees sent this out, multigraphed, *to business men in other states* who had had dealings of any kind with any saloon keeper in New Hampshire. The goods handled might have been hardware or cement or anything else in no distant relation to the drink traffic. Refusal to re-

spond to this demand was practically threatened with boycott. Here are some suggestive sentences:

"The organization includes nearly 90% of the license holders of the State who leave all matters relating to the trade to the executive committee of the Association. From this office is directed not alone all the legislative activities of the trade but the defense of the license territory and the effort to increase the wet area. Requests to you for assistance from individual dealers should be disregarded and, if given, does not entitle the donor to consideration from the organized trade.

"The executive committee of this organization embraces the ablest men in the trade in the state. . . . This assurance is stated that you may appreciate that contributions to the trade are expended for your welfare.

"It is because of the contest we are facing that you are now requested to make as liberal a donation to our defense fund as your business interests in this state warrant. We call attention to the fact that cities voting license remain license for a period of four years and therefore your contribution should reflect a four-years' insurance of your business in this state. Our part in addition to the facts above outlined is by all legitimate means to urge the trade to patronize contributing houses to the exclusion of such houses as will not assist us when we are in need of financial assistance. This we do by furnishing all firms within the state with lists of donors, by granting cards to the salesmen of such firms and by constantly urging licensees in the state to patronize firms listed as association members."

The state of Vermont, I am told by one of the

best informed officials at the Capitol at Montpelier, is practically free from grafting practices save at one point—in its liquor licensing. The side judges appoint the license commissioners of the towns and these in turn grant the licenses but in the appointing the politicians are reported often to have a prepondering influence. Intrigues for licenses seem even to have brought discredit upon the judiciary as in Pennsylvania. The *Rutland Herald,* chief megaphone for the wets, speaks in this connection of "a noisome mess of soiled ermine, miry politics, and piratical exploitation." At a public hearing in Montpelier in 1913 two state senators asserted that they were threatened with defeat at the election unless they would help certain men get licenses. The *Rutland Herald* again mentions the "extraordinary expenses fairly well understood by the 'trade' but concerning which the public hears little" that an applicant for a license is subjected to. What these are it is not difficult to guess. The late Judge Hill of St. Albans, in settling the estate of a saloonkeeper of that city, discovered from the books that for a license which ought at the outside to have cost $2000, $5000 had been paid. In New Hampshire, county solicitors have been reported to be regular attorneys for rumsellers in all that pertains to their business and even to have appeared for them before the State License Commissioners when their licenses were endangered (*N. H. Issue,* Feb., 1905).

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For fourteen years these various evils which the substitution of local option for state prohibition

brought to New Hampshire were patiently endured. Then the legislature decided that the experiment had been tried long enough and re-enacted a rigid prohibitory law, this time extending it to manufacture as well as to sale. Vermont's return to state prohibition has been somewhat delayed by the tactical mistakes of the "drys" in the election of 1916[1] but re-enactment of prohibition is now a mere matter of time.

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[1] Vermont is divided by its mountain-chain into two parts with distinctive moral physiognomies. Under the local option law the New England side of Vermont came back directly to prohibition. The New York watershed retains what is left of the liquor traffic in the state. Higher penalties and the abolition of the old town agencies have given satisfactory prohibition to practically the whole of Eastern Vermont. In the test vote of 1916 for state prohibition the little rural republics east of the mountains, which cast 5440 votes against repeal in 1913, voted almost as strongly against re-enactment. They were satisfied that they had prohibition for themselves and seemed indifferent to the fate of the rest of the state and to the bearing their action might have on the national situation. A far more intense agitation was needed to shake them out of this spirit of particularism. Further, in the political checker playing in the legislature the liquor interest won a distinct advantage over the prohibition side in the matter of druggists' licenses, no provision having been made in the proposed prohibition law for medicinal sale. This was done purposely by the drys in order to have a concession available in the legislative discussion.

When discussion came up, however, the prohibition of medicinal sale was accepted with alacrity by the wets of the legislature. In the campaign which followed an universal shriek was set up against the tyranny which

would prohibit alcohol for legitimate medical purposes. The *Rutland Herald* explained that the Perry (prohibition) Bill "denied the right of an aged invalid to buy port wine even upon prescription of a registered physician. It would extinguish every alcohol lamp in the state. No chemist could procure a solvent for gums; no manufacturer secure alcohol for industrial purposes."

Disingenuous clamor of this sort had much to do with the defeat of prohibition in 1916 by the unexpected majority of 13,489. But the no-license majority cast on the same day was a record one—10,932.

APPENDIX II

TWO OF MAINE'S CRITICS

THE two most pretentious literary attacks on the Maine law are the Committee of Fifty's volume "Legislative Aspects of the Liquor Problem," and Rowntree and Sherwell's "The Drink Problem and Social Reform." Of the first it is enough to say that its author, Mr. Koren, became later a clandestine literary hack of the U. S. Brewers' Association. His report on Maine was branded as "misleading in the general impression which it gives" by the single Maine man on the Committee of Fifty, President Hyde of Bowdoin, and the most superficial examination of the book abundantly confirms this.

Rowntree and Sherwell's book is also taken more seriously than it deserves. The writer recalls examining the reserved volumes on the drink question in the Harvard Library some years ago and found there three copies—well-thumbed ones, too—of this English book! Mr. Sherwell, who has distinguished himself as co-voter with Sir George Younger and the beer crowd in Parliament in an unsuccessful attempt to emasculate the Local Option bill for Scotland, came to Portland in 1899, the year when, under Sheriff Despeaux matters stood at the lowest ebb in the history of the law. This exceptional situation he de-

scribed as if it were the normal one. His guide, philosopher, and friend was a certain Tim Hartnett, an intimate of Seiders, the Portland attorney for the Suffolk Brewery of Boston. Hartnett, then on the police force, made Sherwell's maps and has been, as he tells me, Sherwell's statistical correspondent subsequently. According to Hartnett, Sherwell was less than three weeks in Maine and New Hampshire. This, it is unnecessary to point out, would be for any American wholly inadequate to make even a superficial examination of the subject. Much more so for one without acquaintance with American life and American politics. Mr. Sherwell quotes such authorities as Mr. Koren, the brewers' statistician, and Judge Gould "than whom probably few men in Portland are better qualified to speak" (p. 45). Of this crown witness Neal Dow wrote in the *Argus*, Jan. 23, '86; "I did not expect to succeed in the prosecution of Costello (a rumseller) because I have known Judge Gould's proclivities for a long time but I may say that our difficulties with him and the obstruction we meet from him are far more than I apprehended when I stipulated with Gov. Robie that he should not be appointed—Robie saying to me several times 'You shall not be disappointed.' The marshal and the mayor and the police are free in speaking of the discouragements they meet with from this judge in their efforts to enforce the law and to protect the people from the curse of the grog-shops. The temperance people of the city have no intercourse with him. They know what his sympathies are. It is a great shame that we should not have a municipal judge with whom we

could confer freely and kindly as to the best methods of enforcing the laws against evil doers."

Mr. Rowntree, Hartnett tells me, did not visit Maine but in reading the book which he has published jointly with Sherwell one notices frequently a plural which seems to intimate that he did. "The present writers" are represented (in less than three weeks) as engaging in "careful examination of the city records for the last fifty years which for want of space we forbear to quote" (p. 52). This is as mysterious as the absent treatment of a certain healing sect. Again after stating that wines are freely served in the public dining rooms (of Portland hotels) to guests who order them (a thing that has never ordinarily taken place),[a] it is affirmed that "these facts are matters of personal observation as far as the present writers are concerned" (p. 48). "The present writers were also unable to discover one drug store in which it (liquor) is not sold," also a misleading statement for while it may be true as far as legal and proper sale is concerned it is not true otherwise, the majority of Portland druggists being law-abiding men. "The present writers" were supplied with statistics of the importation of beer into the city. As in the case with most of Mr. Sherwell's material, verification is impossible because of the absence of names and references. Sherwell (p.

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[a] The Preble House in Portland printed at one time on the page of the *menu* where a wine list usually occurs certain sections of the liquor code under the caption of "Why we don't."

50) propounded the absurd thesis that more liquor was being consumed in Portland than would be consumed under license. He forgot to explain to his readers that in periods of strict enforcement 90% roughly of the beer brought into the city has been permitted low per cent beer; in lax times from 50 to 60% and that the beer brought in "from one brewery only" represented practically all in view of a deal made by the then sheriff with the said brewery.[b]

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[b] It came out in the sheriff impeachment trials that barrels of whisky shipped from Boston into Maine are nearly half bottle whisky and not bulk. This would reduce the actual amount of whisky coming in very materially. The same is true of beer (p. 1947, *Me. Legis. Record,* 1913).

Mr. Sherwell (p. 43) states without explanation that there were seven breweries paying tax receipts in Maine at the time of his visit (1899). In 1897 and 1898 there were none. As a matter of fact whatever brewing is done in Maine is wholly of non-intoxicating beer. The amount of this is practically negligible. In 1908, for example, of the four paying the U. S. tax three brewed less than 500 gallons yearly! In 1915 the output was 590 bbls. The law of 1858 permitted the manufacture of drink for the agencies. Under cover of this, attempts were made later by a sugar refinery to distil its waste and by two illicit breweries to operate. Legislation in the seventies prohibited manufacture under a penalty of $1000 and two months. Since then there has been no manufacture save of cider.

Mr. Sherwell, apparently referring to this last exception, suggests that the farmers supply their alcoholic "needs" with cider (p. 60). This is a common taunt of the alcohol capitalists who see in this alleged fact proof positive of the hypocrisy of rural Maine. But the manufacture of cider for sale for tippling or beverage pur-

It would be unprofitable to attempt a critical review of this now out-of-date book in view of the changed and changing conditions in Maine and elsewhere. It has done an evil work of mystification in its treatment of both Maine and Scandinavia. But it is profitable to compare with Mr. Sherwell's account of Portland one written by Mr. Hugh Price Hughes with whom Mr. Sherwell was associated in a West London Mission before he hob-nobbed with Scotch brewery lairds in Parliament. Mr. Hughes wrote in the *Alliance News* (Dec. 18, '91) after a visit to Portland: "As we went through the city we felt that it was one hundred years in advance of any we have ever seen in England. Indeed we scarcely dared to hope that in a century hence our English towns would be so free from foulness and misery as Portland today.

"If this is to be regarded as a failure of the law we must say that the law against stealing is a failure in London because there are thousands of men and women in this city who are perpetually and systematically and professionally engaged in defying the law, in evading or in out-witting the police and

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poses is strictly prohibited (Ch. 29, Sec. 37). No sale even of sweet cider is allowed under one gallon. Formerly, manufactured cider was worked into vinegar which fetched a much higher price than cider. Since the introduction of chemical vinegar the presses of Maine have largely disappeared. The old natural fruit orchards have given place to standard orchards, the fruit of which is too valuable to be worked up into cider. Low-grade apples are shipped off for jelly. Cider drinking is very uncommon in Maine.

plundering their fellow men. This is the case to such an extent that thousands of thieves are well-known to the police of London as professional thieves and burglars although in many cases it is difficult to get legal evidence of their criminal conduct."

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